Calendar No. 2793

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2745

GRANTING CONSENT OF CONGRESS TO ESTABLISHMENT BY STATES OF MISSISSIPPI AND ARKANSAS OF A BISTATE COMMISSION RELATING TO CONSTRUCTING A RAILROAD BRIDGE ACROSS THE MISSISSIPPI RIVER

JULY 21 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany H. R. 10679]

The Committee on Public Works, to whom was referred the bill (H. R. 10679) granting the consent of Congress to the establishment by the States of Mississippi and Arkansas of a bistate commission to investigate the possibilities of constructing a railroad bridge across the Mississippi River, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The bill gives the consent of Congress to the establishment by the States of Mississippi and Arkansas of a bistate commission to investigate the possibility of constructing a railroad bridge across the Mississippi River at or near Greenville, Miss., and Lake Village, Ark.

This action is in the first step necessary in obtaining a much-needed railroad crossing over the Mississippi River near Greenville, Miss., and Lake Village, Ark. There is no presnt crossing over the Mississippi River between Memphis, Tenn., and Vicksburg, Miss.

The committee understands that this proposal has the unqualified support of the residents of the States of Mississippi and Arkansas in the area.

In view of the favorable report submitted by the Department of the Army on the bill, the committee can perceive of no objection to the establishment of a bistate commission for the purpose stated. The report of the Secretary of the Army is as follows:

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DEPARTMENT OF THE ARMY,
Washington, D. C., June 8, 1956.

Hon. CHARLES A. BUCKLEY,
Chairman, Committee on Public Works,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H. R. 10679 and H. R. 10771, 84th Congress, 2d session, bills granting the consent of Congress to the establishment by the States of Mississippi and Arkansas of a bistate commission to investigate the possibilities of constructing a railroad bridge across the Mississippi River.

The Department of the Army offers no objection to favorable consideration of the above-mentioned bills.

The bills would give the consent of Congress to the States to establish a bistate commission for the purposes stated in the titles.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.

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Calendar No. 2794

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2746

STANDBY AUTHORITY FOR PRIORITIES IN TRANSPORTATION BY MERCHANT VESSELS

JULY 21 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 2709

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 2709) to provide for standby authority for priorities in transportation by merchant vessels in the interest of national defense, and for other purposes, having considered the same, report favorably thereon, without amendment, and recommend that the bill as reported do pass.

PURPOSE OF AND REASON FOR THE BILL

S. 2709 would provide the President with authority on a standby basis to carry out the obligations of the United States with respect to programs of international control of shipping when such programs are necessary to the security of the Nation. Under S. 2709, the President would be empowered to prescribe regulations for the issuance and revocation of warrants to vessels and governing the use of shore facilities, so as to meet promptly and effectively the needs of military and other programs. The system of warrants is designed to enforce priorities in congested ports to those vessels of greater importance to national security; to assure maximum economic use of available vessels and shore facilities, and to prevent unreasonable increase in charter hire and freight rates for ocean transportation.

S. 2709 is similar to Public Law 173, 77th Congress, approved July 14, 1941 (55 Stat. 891) and repealed July 25, 1947 (81 Stat. 449). It contains certain new provisions not contained in the earlier legislation, but which, in the light of certain shortcomings in the World War II law, seemed desirable to include.

Tonnage and control of operating tonnage will be immediately vital, the Maritime Administrator advised the committee, in the event of attack which, it must be assumed, will be sudden and sweep-

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ing in scope. The legislation is desirable, he stressed, to meet the Nation's commitments with authority similar to that already adopted by various member nations of the North Atlantic Treaty Organization, in the event that coordinated efforts of these nations become necessary.

At the hearing opposition to enactment was expressed by the Association of American Ship Owners on the grounds that: (1) Adequate priority powers already exist, and (2) the bill does not contain the customary safeguards Congress normally provides for price controls. Subsequently the American Merchant Marine Institute, Inc., submitted a statement opposing enactment on the ground that—

> S. 2709 * * * goes far beyond any requirements which can be justified * * * and permits no adequate redress from unreasonable bureaucratic administration.

In a supplementary letter and statement of views the Secretary of Commerce makes a persuasive case for enactment, and comments on the points raised in opposition by the shipping associations.

The Department of the Navy, speaking for the Department of Defense, suggested two amendments. The first would allow the President to delegate his authority under this legislation. Such authority is included in the bill.

The second suggestion is to include in the bill specific language that the act not apply to vessels and facilities under the exclusive jurisdiction and control of the Department of Defense. It seemed obvious to the committee that a bill dealing with merchant vessels and their berthing, and so forth, could not possibly apply to vessels or facilities exclusively under the control and jurisdiction of the Department of Defense. The bill, of course, does not apply to such vessels and facilities.

The letters and statement, together with other official communications, are appended herewith.

There are no changes in existing law.

THE SECRETARY OF COMMERCE,
Washington, D. C., March 9, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of August 2, 1955, for the views of this Department with respect to S. 2709, a bill to provide for standby authority for priorities in transportation by merchant vessels in the interest of national defense, and for other purposes.

The bill would provide the President with authority on a standby basis to be put into effect whenever he deems it necessary to carry out the obligations of the United States in connection with programs of international control of shipping, when such programs are required to combat aggression, or whenever he finds it necessary to the security of the national defense. The act will become effective whenever the President finds and proclaims that it is necessary in order to carry out these purposes. Operation of the act shall terminate upon proclamation of the President to that effect, or as Congress by concurrent resolution may provide.

The bill provides that, whenever the President proclaims the act to be in operation and he deems it to be in the interest of national security or the maintenance of essential supplies and services, the President may prescribe regulations for the issuance and revocation of warrants and governing the use of shore facilities under the act with respect to any vessel using or seeking to use such facilities. The objective of prescribing such regulations would be to meet promptly and effectively the requirements of military and other programs, and to provide for an promote the security of the United States and that of allied or associate nations.

The system of warrants for merchant vessels under the act is designed to enforce priorities in congested ports to those vessels of greater importance to our national security, to secure the maximum economic use of available vessels and shore facilities, to prevent the waste of scarce materials and supplies in servicing vessels which might be engaged in activities harmful or less essential to the interest and programs of the United States, and to prevent unreasonable increases in charter hire and freight rates for ocean transportation. Such coordination in time of war or active mobilization is of high critical importance to the United States and to its allies or associates who will be exercising similar controls in the event that coordinated efforts of nations become necessary. Under the bill, vessels desiring to use the shore and port facilities of this country would be required to secure a warrant or similar document as a condition to the use of such facilities. The use of shore facilities would be prohibited to any vessel not having such a warrant.

As a condition on the receipt of a warrant, the vessel operator would be required to enter into undertakings with respect to the trade in which the vessels of the operator are employed, the voyages undertaken thereby, the passengers or cargoes to be carried, and to abide by fair and reasonable maximum charter and transportation charges. In determining such rates and charges the President is directed to give due consideration to the valuation principles prescribed in section 902 of the Merchant Marine Act, 1936, as amended. A breach of any undertaking would subject the operator to the forfeiture of his warrant and thereby the loss of port and shore facilities.

In considering applications for warrants, the President is authorized to consider certain circumstances, including the origin and previous operating history of the vessel, the price and terms upon which the vessel may have been sold or transferred, as well as the operating practices of the applicant. Such provision for withholding of warrants in cases where there is a history of failure to assist the Government or of activities hampering the Government's programs and objectives has the objective of securing the most tonnage for services contributing to the purposes of the act.

The regulations under the act may be made applicable to the use of any facilities for loading, discharging, lightering, or storage of cargo, any facilities for the furnishing of oil, coal, or other fuel, supplies, stores, or food, or any facility for the overhauling, drydocking, reconditioning, or repair of vessels. The President may except from the regulations types of vessels the control of which he determines not to be required for the purposes of the act.

The proposed standby system of ship warrants is not new or untried but is based upon previous experience in World War II under Public Law 173, 77th Congress, approved July 14, 1941 (55 Stat. 591), and

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repealed July 25, 1947 (61 Stat. 449). The bill is strengthened in the light of certain shortcomings of the World War II law, which were met by administrative action and which should be incorporated in the frame of the legislation.

In any emergency period requiring mobilization of the Nation's shipping and other resources involving great acceleration of the use of supply and repair facilities for shipping, ports will be subject to congestion and strain. In such time it will be vitally important to carefully control the use of vessels in the movement of cargoes. The international character of shipping makes special provisions of law desirable in order to prevent deterioration in the situation of our country and any allied or associated countries. To have statutory authority available will have the ultimate advantage of securing for the United States and cooperating nations the use of tonnage from the world's supply. The existing large Government-owned reserve fleet of merchant vessels is now 10 to 15 years old and is not in itself a guaranty of national safety so far as shipping facilities in time of war or defense emergency are concerned. No matter how well maintained a reserve fleet may be it takes at least some days to move it into operation. Tonnage and control of operating tonnage will be immediately vital in the event of attack which, it must be assumed, will be sudden and sweeping in scope.

The bill contains several sections of a supplementary or administrative character which will be noted section by section.

Section 5 provides that operators of listed facilities in the United States and places within its jurisdiction shall be governed by the regulations regardless of existing contracts.

Section 7 provides that it shall be the policy of the United States to coordinate the authority granted by the act with the exercise of similar authority by allied or associated nations.

Section 8 defines the word "person" so as to include any entity capable of entering into a contract.

Section 9 is an interpretation provision to prevent the imposition of any condition that a vessel owner relinquish the care and supply of his vessel to any other person.

Section 10 is designed to preserve the coastwise laws of the United States from modification, but does not exempt vessels engaged in coastwise trade from the provisions of the act. This section also provides that the act is in no way to affect authority already granted by the Defense Production Act (extended in part until June 30, 1956). A severability clause is included.

Section 11 authorizes the President to delegate any power and authority conferred on him by the act (except the issuance of proclamations) to the Secretary of Commerce, and may authorize redelegation of such authority by the Secretary of Commerce to the Maritime Administrator with authority to make further redelegations to employees of the Maritime Administration or the Federal Maritime Board. Provision is also made for interdepartmental coordination in carrying out programs under the act in relation to other programs of the Government.

Section 12 exempts the functions exercised under the act from the requirements of the Administrative Procedure Act (except as to section 3 thereof, which contains requirements as to notice to the public, and provides also that no secret matter need be published).

Section 12 (section 13?) provides penalties for violation of the act, the regulations, or orders issued, with a maximum penalty of $10,000 fine and 2 years imprisonment. United States courts having territorial jurisdiction are given jurisdiction over offenses.

Section 14 relieves persons who comply with rules, regulations, or orders issued under the act, from damages or penalties resulting from compliance, notwithstanding that such rule, regulation, or order may be declared invalid by judicial or other competent authority.

The Department recommends early consideration and enactment of this legislation. In addition to being an important standby authority as part of the readiness program in the interest of security, the legislation is desirable to meet the commitments on the part of the United States for exercising this authority in coordination with authority already adopted by various member nations of the North Atlantic Treaty Organization, in the event that coordinated efforts of these nations become necessary.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this report to your committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

DEPARTMENT OF COMMERCE,
OFFICE OF THE GENERAL COUNSEL,
Washington, March 14, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: This is with reference to the report and testimony which this Department submitted to your committee on March 12, 1956, with respect to S. 2709, a bill to provide for standby authority for priorities in transportation by merchant vessels in the interest of national defense, and for other purposes.

Through a misunderstanding arising out of the urgency of this matter, the advice of the Bureau of the Budget included in our report was incorrectly given. We are advised that while there was no objection to the submission of our report and testimony to your committee, the Bureau of the Budget believes that section 11 of the proposed bill unduly restricts the power of Presidential delegation and is opposed to limiting the President's power in this matter.

It would be appreciated if your committee were to bring this information to the attention of those concerned and include this letter in any printing of our report or testimony on this legislation.

Sincerely yours,

HAROLD B. CORWIN,
Deputy General Counsel.

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DEPARTMENT OF THE NAVY,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, D. C., March 10, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Your request for comment on the bill S. 2709, to provide for standby authority for priorities in transportation by merchant vessels in the interest of national defense, and for other purposes, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The purpose of this measure is to provide the President with standby authority to carry out the obligations of the United States in connection with programs of international control of shipping when such programs are required to combat aggression or when necessary to the security of the national defense. The bill would authorize the President to prescribe regulations for the issuance and revocation of warrants governing the use, by vessel owners and charterers, of shore facilities in this country. The regulations authorized by the bill may provide for undertakings with respect to the trade in which vessels shall be employed, voyages to be undertaken, passengers or cargo to be carried, rates of charter hire, transportation charges, and such other matters necessary to carry out the purposes of the act. Section 11 of the bill authorizes the President to delegate the powers conferred upon him to the Secretary of Commerce with the power to redelegate any or all of such authority to the Administrator of the Maritime Administration who likewise may redelegate to other officers and employees of the Maritime Administration or the Federal Maritime Board.

The Department of Defense is in accord with the objectives of S. 2709 and recognizes that the exercise of such broad authority in wartime is essential to insure that our country's shipyards, piers, and other shore facilities are utilized to the most effective advantage and in a manner conducive to the successful prosecution of the defense effort.

However, it is conceivable that in wartime it would be desirable to assign functions related to international control of shipping to some agency other than the Maritime Administration. It is believed that the powers of the President in this regard should not be unduly restricted. Therefore, it is recommended that the bill provide for delegation in such manner as the President deems appropriate, rather than to a specific agency. Accordingly, it is recommended that the first sentence of section 11 be amended to read as follows:

"SEC. 11. The President may delegate the power and authority conferred upon him by this Act (except the issuance of proclamations provided for hereunder) in such manner as he deems appropriate."

Although the title of the bill describes it as providing standby authority for priorities in transportation by merchant vessels, the text of the bill describes the authority granted thereunder as being applicable to "any vessel" and to the "use of shore facilities". Thus, if literally interpreted, the bill would empower the Secretary of Commerce, upon delegation of authority by the President, to establish priorities for naval vessels as well as commercial or merchant vessels

and to control the use of all shore facilities, including naval shipyards. It is not believed that this result was intended by the proponent of the bill. The assumption of authority by another Government agency to establish priorities for conversion and repair work on naval vessels would be incompatible with the provisions of section 2 of the act of March 5, 1948 (62 Stat. 67; 5 U. S. C. 423b), which provides, among other things, that the Chief of Naval Operations shall be responsible for the readiness and preparation for war of the operating forces. It is, therefore, recommended that the bill be amended by adding a new section, as follows:

"SEC. 15. This Act shall not apply to vessels, shipyards, terminals and other shore facilities under the exclusive jurisdiction and control of the Department of Defense."

Subject to the foregoing comments and recommendations, the Department of the Navy, on behalf of the Department of Defense, recommends the enactment of S. 2709.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Department of the Navy has been advised by the Bureau of the Budget that there is no objection to the submission of this report on S. 2709 to the Congress.

Sincerely yours,

IRA H. NUNN,
Rear Admiral, USN,
Judge Advocate General of the Navy
(For the Secretary of the Navy).

MARCH 13, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to the request of your Committee for the views of the Treasury Department on S. 2709, to provide for standby authority for priorities in transportation by merchant vessels in the interest of national defense, and for other purposes.

The stated purpose of this bill is to provide the President with authority on a standby basis to be put into effect, whenever he finds it necessary, to carry out the obligations of the United States in connection with international programs for control of shipping, if and when such programs are required to combat aggression, or when he finds it necessary to the security of the national defense. The bill would authorize the President to prescribe regulations for the issuance and revocation of warrants and for governing the use of certain shore facilities.

This bill if enacted will set up a system of controls concurrent with and parallel to those exercised by the Coast Guard and the port-security program set up under the Magnuson Act. However, S. 2709 provides authority for the President to coordinate any program undertaken under this bill, if enacted, with other related programs of the Government. It is the view of the Treasury Department that there is no inherent conflict between present programs and that contemplated in this bill.

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The Treasury Department has no objection to the enactment of S. 2709.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

THE SECRETARY OF COMMERCE,
Washington, July 17, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: In the hearings by the Senate Subcommittee on Merchant Marine and Fisheries, March 12, 1956, you requested our views on the statement on behalf of the Association of American Ship Owners relating to S. 2709, providing standby authority for priorities in ocean transportation by merchant vessels. Subsequently, there was submitted a statement from the American Merchant Marine Institute, Inc., under date of March 20, 1956. These statements raise similar questions and objections to the bill. In this letter we summarize our views on the primary objections raised by the two statements. In the attached statement we give our views in detail, first considering the general issues and then commenting on certain specific questions.

The primary objections to enactment of S. 2709 may be grouped under three points: that adequate priority powers already exist; that the bill is too broad in scope of application; and that this is not a proper time for enactment.

Section 902 of the Merchant Marine Act, 1936, and Public Law 569, 83d Congress, under certain conditions, authorize the requisition of United States shipping and the requisition or purchase of foreign-flag tonnage. These laws are standby legislation, enacted in advance of actual need. S. 2709, under similar conditions and also on a standby basis, would authorize the imposition of well-tested controls over both foreign and United States shipping on a nondiscriminatory basis, and incidental controls over shore facilities under United States jurisdiction. All three of these types of legislation were enacted prior to United States entry into World War II, were exercised during that war, and were of utmost importance to its successful conclusion. All three types are an integral part of our present United States mobilization planning and defense programs with respect to ocean transport.

It is, of course, impossible to anticipate the precise circumstances which might necessitate application of warrant controls to shipping using the port facilities of the United States and of allied countries. In recognition of this obvious fact, under North Atlantic Treaty arrangement countries joining the United States in the coordinated wartime control of shipping (and especially of "free" neutral shipping) have secured or are now securing control authority in accordance with their constitutional procedures. Having in mind the lessons of World War II, if the maritime agencies delayed their request for this type of legislation until the time when it must be placed into effect, as advocated by the Association of American Ship Owners in the

case of the United States, their Governments could, and no doubt should, be criticized for laches.

The criticism that the bill is too broad in its scope of application is not well founded. S. 2709 is commensurate in scope with World War II legislation and regulations based on the Ship Warrants Act (Public Law 173, 77th Cong.) and on related powers and functions specified in other legislation. Without adequate controls under a civilian agency, chaotic conditions would result as contrasted with orderly administration. Had the World War II warrant controls been inadequate, and had it been impossible to close certain loopholes whereunder they could have been evaded, the situation would have worked hardship on the vast majority of shipowners and facility owners who willingly cooperated. Assuming requisition of United States ships under circumstances necessitating warrant controls, the "free" neutral shipowners would be the beneficiaries of the suggestions made by the opponents of this legislation.

Existing priority law, in our opinion, is not adequate. The priority and allocation powers under the Defense Production Act of 1950, do not squarely meet the legislative requirements. The Defense Production Act is primarily a domestic statute. It is a temporary emergency law, operative now only by partial extensions and is not standby in concept. Even if the necessary controls could be spelled out of the Defense Production Act and other laws and Executive orders, we believe it would be sounder for the Congress to legislate as in S. 2709, the specific forms of controls which will be applicable. The control of shipping, even on a quid pro quo basis, has serious international implications. Experience has shown that the specific warrant legislation of World War II was far more effective than the application to foreign vessels of domestic control legislation in World War I. Incidentally, the latter resulted in arbitration awards against the United States, but no foreign claim against our Government resulted from the ship warrant legislation.

As a general comment, most of the objections envisioned against the scope of S. 2709 would lie against other methods of control, any one of which could be administered or maladministered in such a way as to give rise to grievances. The objections assume extremes of maladministration and abuse of authority, which are not in fact likely to occur. Any grievances likely to arise under S. 2709 can be remedied through normal administrative and judicial processes.

The attached statement of views sets forth in detail our analyses and conclusions regarding the main points herein summarized and certain questions.

The Department recommends enactment in this session of Congress of the measure without substantial change.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this letter to your committee.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

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Views Regarding Statements Presented Before the Subcommittee on Merchant Marine and Fisheries of the Senate Committee on Inter-State and Foreign Commerce, by the Association of American Ship Owners and the American Merchant Marine Institute, Inc., on the Ship Warrants Bill, S. 2709

The primary objections made by the statements on behalf of the Association of American Ship Owners (hereinafter referred to as association) and the American Merchant Marine Institute, Inc. (hereinafter referred to as institute) to enactment of S. 2709 may be grouped under three points: that adequate priority powers already exist; that the bill is too broad in scope of application; and that this is not a proper time for enactment. We will first consider the general issues raised and then comment more specifically on particular questions.

As a preliminary to presentation of our views, we may state that this legislation is an important part of the authority needed in the maritime field for our national defense. The bill is standby legislation to be put into effect when the President makes and proclaims his finding that it is necessary to carry out the purpose of the act, and operation thereof is to terminate upon proclamation of the President or as Congress may by concurrent resolution provide. The United States has statutory standby authority under section 902 of the Merchant Marine Act, 1936, and Public Law 569, 83d Congress, approved August 9, 1954 (68 Stat. 675), to requisition for title or charter any citizen-owned ship and to requisition or purchase foreign-flag tonnage. The bill, S. 2709, would supply important merchant-marine legislation necessary for standby purposes.

Stated in brief, the bill provides that, whenever the President proclaims the act to be in operation and he deems it to be in the interest of national security or the maintenance of essential supplies and services, the President may prescribe regulations for the issuance and revocation of warrants and governing the use of shore facilities under the act with respect to any vessel using or seeking to use such facilities. The system of warrants for merchant vessels under the act is designed to enforce priorities in congested ports to those vessels of greater importance to our national security, to secure the maximum economic use of available vessels and shore facilities, to prevent the waste of scarce materials and supplies in servicing vessels which might be engaged in activities harmful or unessential to the interest and programs of the United States, and to prevent unreasonable increases in charter hire and freight rates for ocean transportation. Under the bill, all vessels of whatever flag desiring to use the shore and port facilities of this country would be required to secure a warrant or similar document as a condition to the use of such facilities. The use of shore facilities would be prohibited to any vessel not having such a warrant.

With reference to the priority and allocation powers under the Defense Production Act of 1950, in our opinion that act does not squarely meet the legislative requirements with respect to the merchant marine. The Defense Production Act is primarily a domestic statute. It is temporary emergency legislation, operative only by extension from year to year, and is not standby in concept. Domestic control was applied to foreign shipping during World War I, resulting

in serious difficulties and in arbitration awards against the United States after the war. In World War II, much broader and more effective controls were applied through ship warrants which were administered in coordination with other statutory wartime controls, so that the merchant shipping was regulated for war needs on a unified basis suitable to the nature of, and the requirements to be met by, ocean shipping in foreign trade. It should be noted that no foreign claim was made against the United States based on warrant control. By requiring all warrant holders using our port facilities to agree in their undertakings under the Ship Warrants Act to comply with administrative controls imposed as necessary and reasonable in particular cases, there was no discrimination against anyone in foreign trade and no occasion to invoke treaties prohibiting such discrimination.

Without authority as proposed under ship warrants, and if ships are not requisitioned in an emergency and are permitted, for any brief period before requisition, to earn on the basis of noncontrolled rates (limited only by what the traffic would bear under emergency conditions), excess profits tax measures would most likely take such gain away from owners of American ships. Neutral shipowners may not be taxed on the same basis as our United States operators subject to both control and special taxation, and "free" neutral shipping could benefit exorbitantly. Neutral shipping could retain its gains to build new fleets with which to compete with American shipping postwar.

Objection is voiced on the ground that the legislation is too broad in scope compared to the World War II law, and that property rights are not adequately protected against arbitrary action. The bill embraces only powers which were delegated by the World War II ship warrants law and those actually exercised thereunder in connection with related powers and functions of the Government specified in other laws (Public Law 173, 77th Cong., approved July 14, 1941; 55 Stat. 591). The ship warrants law of 1941 was interpreted and applied as one element of overall control legislation enacted in the interest of the defense and war effort. Obviously, it was not regarded as independent of other wartime governmental activities.

Experience in World War I and in World War II has sharply illustrated the lesson that in periods of war or general mobilization the efficient pooling and use of all available merchant shipping tonnage to meet the Government's requirement is of critical importance. Even with our reserve fleets of merchant ships, and with the cooperation of foreign ships in pooling arrangements, mobilization studies show that there would not be enough ships of the necessary types to meet all requirements. Free neutral shipping expecting to avail itself of United States port facilities must, as a guid pro quo for such use, make reasonable contributions through carrying necessary cargoes and foregoing exorbitant rates. The United States must be prepared to act in accord with its defense programs and mobilization requirements with respect to ocean transport.

Objections to authorizing the standby control to be exercised when needed to meet our national obligations under allied defense control (secs. 2, 3, and 7 of the bill) ignore the history of World War II, in which an aggressor country took over country after country separately at the beginning of the war. It is now generally recognized that a

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coordinated defense program is necessary. Under the North Atlantic Treaty approved by the Congress, defense plans have been developed of which the pending ship warrants legislation is a practical and important part. Other member countries already have or are securing similar authority in respect of use of their facilities for shipping. This coordination does not involve delegation of authority on shipping policy to other countries but provides for a cooperative functioning of ocean transport operations, as was the case in World War II. Instead of bringing about discrimination to the citizen operators in ocean shipping, it would be a protection to the cooperating owners.

Both the association and the institute raise objections that S. 2709 does not contain the customary safeguards Congress provides for rate controls. This objection overlooks the fact well known to your committee that the use of the phrase "fair and reasonable" as a standard of law (sec. 4 (a) of the bill) for regulatory control (compared to "just compensation" in the case of requisition) is supported and illustrated by judicial and quasi-judicial precedents and decisions, and is an established rate regulation standard, determinations under which are subject to attack in the courts by any aggrieved person. The differences between regulatory powers and exercise of eminent domain have been clarified in Supreme Court decisions. There is no guaranty that regulation will provide a generous profit to all affected by it. Under the warrants measure, all shipping using United States port facilities are placed on the same basis of control, which is applied through the disponents of the ships; that is, private shipowners and charterers or requisitioning governments, as the case may be. A neutral foreign shipowner could take a ship to some other part of the world outside allied controls, or he could lay it up. The United States Government would not take possession of his ship but would specify the conditions under which it could secure facilities under United States jurisdiction.

In periods when American ships would be under control by requisition, the effect of processes desired by the association would be of practical benefit only to neutral-flag shipowners who might claim they could not make a profit under a fair and reasonable rate level. There appears to be no reason to encourage claims from these sources on those grounds.

In World War II, under the Ship Warrants Act, administrative processes worked very well in protection of any aggrieved persons. A Committee on Rate Appeals was established administratively by the War Shipping Administration. Only a dozen or so complaints were made (although more than 4,000 warrants were issued) against application of the War Shipping Administration rate level in specific cases. That rate level was admittedly below that of previous noncontrolled rates but was still well above the preemergency rate levels, and made adequate allowance for increased cost of operating under emergency and wartime conditions. This control saved the United States and allied countries very large amounts of money without any substantial objection to such control as evidenced by the small number of complaints.

Controls must be effective so that all shipping will be on a fair and equitable basis. As previously stated, these controls are not new; they were tested in operation in World War II. Before and during World War II, the great majority of shipowners and facility owners

cooperated willingly in the ship warrants program. In fact, complaints generally came from shipowners who were pleased to cooperate, but who pointed out other shipowners or facility owners who were evading warrant control through technicalities or loopholes not covered by regulations in the early stage of the program. In fact, priorities under ship warrants law were criticized by shipowners and ship facilities owners on the ground of inadequacy rather than stringency. It is believed that more objections are likely to be brought about by shipowners because of a loose and partially effective control than to an adequate and uniform application of the controls.

As to whether the requirements of the control authority are fair and reasonable in operation, every shipowner would have recourse to and protection of the courts. Nothing in the bill prevents such recourse. If the essential control of shipping be burdened with time consuming and expensive procedural machinery in order to protect against situations not likely in fact to occur, such machinery would only be of assistance to the few foreign neutral shipowners who would resort to all possibilities to reap exorbitant returns without cooperating in our defense effort. From the viewpoint of practical operation, it is believed that the operator of a United States-flag ship which might briefly be under warrant control prior to its requisition, can secure adjustment of his complaints on a case-to-case basis before the administrative agency much more effectively and less expensively than by resort to court process.

With reference to the desirability of enacting standby legislation at the present time, it is obviously not possible to anticipate the precise circumstances which might necessitate application of warrant controls to shipping using United States port facilities.

We cannot predict what kind of defense effort or what scope of war activities may face this country even in the near future. It may very well be found necessary to control the trading areas of all ships prior to any overt hostilities for the benefit of vessel owners and their protection, as well as for the overall national interest. For the reason, it is not desirable to limit the operation of the standby legislation to periods simultaneous with general requisition under section 902 of the 1936 act. Such a limitation would be satisfactory so far as the allied planning commitments made by members of the North Atlantic Treaty Organization are concerned, but might not be adequate in the interest of our merchant marine and our own defense.

In the event of outbreak of war or of serious emergency necessitating placing standby warrant control legislation in effect, requisition under existing law of merchant shipping may follow quickly or after short delay. If requisition does follow quickly, merchant shipping will be fully and directly under control of the United States Government and the warrant act will serve only as an administrative control mechanism so far as United States owners are concerned. In World War II an interval of some 6 months intervened between the activation of the ship warrants controls (September 1941) and general requisition (April 1942). During the Korean war neither requisition nor warrants control was necessary. Shipping was provided from our reserve fleet. We cannot, of course, guess as to the length of any interval between imposition of controls and requisition in the future, but we must be prepared when the need arises. Conditions obtaining since the approval of the North Atlantic Treaty Organization are quite

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different from those obtaining in 1941. Warrant control authority should be available for use so that the United States can cope with any set of circumstances so serious as to necessitate control over all shipping using United States port facilities.

The mobilization plans of the United States, with respect to ocean transportation, include as an integral part the enactment of legislation by the United States in advance of the actual need, in order that coordinated operation of our merchant marine and merchant marines of allied nations can be in effective operation immediately. We cannot measure in advance the gravity of dangerous situations affecting ocean shipping. It is generally agreed that an attack with modern military force would be made without warning and might have a catastrophic effect requiring action which could not await suitable legislative authorization under the circumstances.

Precautionary enactment of standby legislation is entirely sound and would be consistent with existing statutes covering ship requisition and purchase. If the maritime agencies delayed their request for this type of legislation until the time when it must be placed into effect, as advocated by the association, the Administration could be criticized for laches, in view of the lessons of World War II.

Specific inquiry is made by the association as to the nature of the control contemplated under section 4 (c) of the bill (operating history of the vessel, prior sales or transfers, and operating practices of the applicant). The necessity of control, as contemplated in section 4 (c), is well illustrated by World War II experience in connection with activities of certain shipowners who used great ingenuity to evade wartime controls of Allied Governments. Ships known to be trading for the benefit of the enemy and prevented from securing port facilities by tightened controls would be sold, either actually or colorably, to neutrals who would then apply for and demand ship warrants, with agreement to all the standard conditions. The applicant for a warrant on a "clean" ship might still have other ships remaining in activities outside allied controls and ineligible for warrants but reaping returns from trade for enemy benefit. The price, terms, and circumstances of a sale would often give indication as to the bona fides of a transaction. For cases like these, it is necessary to have a general omnibus control clause to cover unforeseeable and undesirable activities by persons engaged in merchant-marine operations and using our port facilities. No one can tell in advance the specific evasionary schemes which should be subject to control.

With reference to another specific inquiry, the law to be adequate must cover incidental and supplementary matters which circumstances may make it important to control. These matters were covered by General Orders under World War II legislation. In practice these regulations related to such matters as (*a*) requiring warrant holding vessels when outside of United States territorial waters to remain at specified distances from certain United States defense installations, (*b*) requiring observance of special berthing arrangements in specified ports to accommodate certain vessels critical in the war effort, and (*c*) requirements relating to transportation of specified categories of passengers. We cannot foresee the need for such special provisions in advance and they should be incorporated in this standby legislation to avoid the necessity of piecemeal congressional action in time of crisis or war. This is implicit in any scheme of legislation unified to

cover the problems with respect to ocean shipping in a defense emergency.

In summary, we present these conclusions:

Standby ship warrant legislation is necessary and desirable. Existing priority law is not adequate. Even if national defense controls could be spelled out of the Defense Production Act and other laws and Executive orders to meet the problems certain to arise in connection with ocean shipping with its direct international aspects, we believe that it would be sound for Congress to legislate, as in S. 2709, the specific forms of controls applicable to shipping which will desire to enjoy facilities under the jurisdiction of the United States during its continued operation under defense or war circumstances.

As in World War II, allied countries joining with this country in any defense effort will cooperate in controlling shipping and especially "free" shipping, so as to channel it into trades and cargoes promoting the common effort, and to prevent profiteering through exorbitant freight or charter rates which would be an unjustified drain on national finances.

The standby law should be effective in meeting the problems. The bill would coordinate in one statute standby controls applicable to all shipping, including free neutral shipping, so that it will be able to function with a minimum of confusion in time of emergency. If the bill were reduced to ineffectiveness with respect to rate and other controls, authority to apply adequate controls would necessarily have to be pieced together to save the United States from exorbitant expenditures and to prevent discrimination against cooperating shipowners and facility owners who we believe will constitute the great bulk of persons subject to the law. Without these types of controls under civilian agency, chaotic conditions would result as contrasted with orderly administration of necessary controls.

Most, if not all, objections made to the standby proposal envision extremes of maladministration and abuse of authority, which are not in fact likely to occur. Any grievance likely to arise can be remedied through normal administrative and judicial processes. Most of the objections envisioned would lie against any other methods of control, any one of which could be administered or maladministered in such a way as to give rise to grievances. If the Government should wish arbitrarily to deprive American shipowners of benefits of uncontrolled operation under emergency conditions, it could invoke general requisition of ships before it became necessary. No one would desire such action. It is clear that regulatory controls over all ships coming within United States jurisdiction, including free neutral ships, properly administered in accordance with the circumstances are necessary, and enactment thereof is required by sound national policy in face of visionary or theoretical objections. Legislation designed to meet all such objections could be so ineffective as to give rise to critical danger to the United States in the event of a defense crisis or a war. The warrants control proposal presents a key segment to necessary conduct of a defense effort and preserves in one agency the administration of adequate regulatory provisions in the interest of the Nation and the industry.

Legislation in advance of immediate need is sound. We cannot predict what kind of defense effort or what scope of war activities may face this country even in the near future. The mobilization

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plans of the United States with respect to ocean transportation include as an integral part the enactment of legislation by the United States in advance of the actual need, in order that coordinated operation of our merchant marine and the merchant marines of allied nations can immediately be in effective operation.

Precautionary enactment of standby legislation is entirely sound and would be consistent with existing statutes covering ship requisition and purchase. If maritime agencies delayed their request for this type of legislation until the time when it must be placed into effect, as advocated by the association, the Administration could be criticized for laches, in view of the lessons of World War II.

PANAMA CANAL COMPANY,
Washington 25, D. C., March 9, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR SENATOR MAGNUSON: Reference is made to your request for a report on the bill S. 2709, to provide for standby authority for priorities in transportation by merchant vessels in the interest of national defense, and for other purposes.

Among other things, the bill would provide the President with emergency authority to establish a priority system for the use by vessels of any facility for loading, discharging, lightering, or storage of cargo, any facility for the furnishing of oil, coal, or other fuel, supplies, stores, or food, or any facility for the overhauling, drydocking, reconditioning or repair of vessels. The Panama Canal Company, a corporate agency of the United States, owns and operates in the Canal Zone the types of facilities described in the bill.

Section 6 would provide that persons in the United States and its Territories and possessions, or other places subject to the jurisdiction of the United States, who shall be in the business, or otherwise capable, of furnishing any of the above-mentioned services shall grant priorities or withhold use of facilities, as required by regulations prescribed under the act. The bill would apply to the Canal Zone. The similar act of July 14, 1941 (ch. 297, 55 Stat. 591), as amended, which was repealed by the act of July 25, 1947 (ch. 327, 61 Stat. 449), was in force in the Canal Zone during the World War II period.

The Panama Canal Company has no objection to favorable consideration of the proposed legislation. The bill would have no significant fiscal effects for this agency.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

W. M. WHITMAN, *Secretary.*

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Calendar No. 2795

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2747

AMENDING THE RAILROAD RETIREMENT ACT OF 1937

JULY 21 (legislative day, JULY 16), 1956.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 3616]

The Committee on Labor and Public Welfare, to whom was referred S. 3616, a bill to amend the Railroad Retirement Act of 1937, to provide increases in benefits, special disability determinations for railroad employees, and for other purposes, and to amend the Railroad Unemployment Insurance Act, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

(*a*) Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 3 (a) of the Railroad Retirement Act of 1937 is amended by striking out "2.76", "2.07", and "1.38" and inserting in lieu thereof "3.04", "2.28", and "1.52", respectively.

(b) So much of section 3 (e) of such Act as precedes "*Provided, however*" is amended to read as follows: "(e) In the case of an individual having a current connection with the railroad industry, the minimum annuity payable shall, before any reduction pursuant to section 2 (a) 3, be whichever of the following is the least: (1) $4.55 multiplied by the number of his years of service; or (2) $75.90; or (3) his monthly compensation:".

SEC. 2. (a) Section 5 (h) of the Railroad Retirement Act of 1937 is amended by striking out "$30", "$160", and "$14" wherever they appear and inserting in lieu thereof "$33.00", "$176", and "$15.40", respectively.

(b) Section 5 (1) (10) of such Act is amended by striking out "40", "10", "$14", "$33.33", "$25", and "$13.33", wherever they appear and inserting in lieu thereof "44", "11", "$15.40", "$36.66", "$27.50", and "$14.66", respectively.

SEC. 3. All pensions under section 6 of the Railroad Retirement Act, all joint and survivor annuities and survivor annuities deriving from joint and survivor annuities under that Act awarded before July 1, 1956, and all annuities under the Railroad Retirement Act of 1935 are increased by 10 per centum.

SEC. 4. The amendments made by the first section of this Act any by subsection (a) of section 2 shall be effective only with respect to annuities (not including annuities to which section 3 applies) accruing for months after June 1956. The amendments made by subsection (b) of section 2 shall be effective only with respect to annuities accruing for months after June 1956 and lump-sum payments

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(under section 5 (f) (1) of the Railroad Retirement Act of 1937) in the case of deaths occurring after June 1956. Section 3 shall be effective only with respect to pensions due in calendar months after July 1956 and annuities accruing for months after June 1956.

(*b*) Amend the title so as to read:

A bill to amend the Railroad Retirement Act of 1937 to provide increases in benefits and for other purposes.

The committee bill would increase benefits under the Railroad Retirement Act by, generally, 10 percent. The bill would not increase any annuity which is already in an amount equal to the annuitant's average monthly wage because it is obviously contrary to retirement policy for a retirement annuity to be in excess of the average amount that the retired employee earned during his working life. Further, the bill would not increase the social security minimum; that is, an annuity which has already been increased by reason of such minimum to an amount above the amount computed under the railroad retirement formula will be increased only to the extent that the increase by reason of such minimum is less than 10 percent of the annuity computed under the regular railroad retirement formula. Finally, a spouse's annuity in an amount of more than $49.40 will not be increased by the full 10 percent since the bill does not provide for increasing a spouse's annuity above the present maximum of $54.30.

ALL STANDARD RAILWAY LABOR UNIONS SUPPORT THE COMMITTEE BILL

The Railway Labor Executives' Association advised your committee that all the standard railway labor unions are in favor of the committee bill. The Railway Labor Executives' Association consists of the chief executives of the following standard railway labor organizations: American Train Dispatchers' Association; Brotherhood of Locomotive Firemen and Enginemen; Brotherhood of Maintenance of Way Employees; Brotherhood Railway Carmen of America; Brotherhood of Railroad Signalmen of America; Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees; Brotherhood of Railroad Trainmen; Brotherhood of Sleeping Car Porters; Hotel and Restaurant Employees and Bartenders International Union; International Association of Machinists; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; International Brotherhood of Electrical Workers; International Brotherhood of Firemen and Oilers; International Organization Masters, Mates and Pilots of America; National Marine Engineers' Beneficial Association; Order of Railway Conductors and Brakemen; The Order of Railroad Telegraphers; Railway Employes' Department, AFL–CIO; Railroad Yardmasters of America; Sheet Metal Workers' International Association; and Switchmen's Union of North America.

NEED FOR NEW LEGISLATION

The standard railway labor organizations and many Members of Congress have been seriously concerned with the inadequacy of the benefits under the Railroad Retirement Act to cope with the rising cost of living. The greatest sufferers from the present high cost of living are those people who are trying to exist on a fixed income, such as pensions and annuities. They are trying to get along on a fixed

number of dollars each month, and these dollars are buying less. The end result is that these people are driven to greatly lowered living standards. There was general agreement until recently that the railroad retirement system was virtually without peer among plans of its kind. However, with the passage of the 1950 and later amendments to the Social Security Act, and the gains made in the past several years by employees in many industries through the adoption of private supplemental pension plans, the railroad retirement system has fallen behind. Recognizing this problem, many Members of Congress have introduced bills proposing to improve the benefits under the Railroad Retirement Act.

COST OF BENEFITS PROVIDED FOR BY THE COMMITTEE BILL AND THE DISTRIBUTION OF SUCH BENEFITS

The chief actuary of the Railroad Retirement Board estimated that the proposed increase in benefits provided in the committee bill would cost 1.57 percent of taxable payroll, as follows:

Item	*Additional cost (percent of payroll)*
Employee annuities and pensions	1.11
Spouses' annuities	.05
Aged widows' annuities	.16
Other monthly survivor benefits	.01
Insurance lump sums	.02
Allowance for accelerated retirement	.27
Savings on residual payments	—.05
Total	1.57

The cost item of 0.27 percent of taxable payroll as "allowance for accelerated retirement" is questionable. Without this item the estimated cost of the committee bill would be only 1.30 percent of taxable payroll.

The Board's actuary assumed that the average railroad employee who earns an average of more than $300 a month would voluntarily retire on an annuity considerably less than one-half his average earnings. This assumption was seriously challenged by the standard railway labor unions and by the labor member of the Railroad Retirement Board when the average increase would have been $15 a month under the bill as introduced. Now that the average increase under the committee bill would be only about $10 a month, the actuary's assumption is even more questionable.

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Tables 1 and 2 below show the effect of the committee bill on the beneficiaries under the Railroad Retirement Act:

TABLE 1.—*Estimated numbers of monthly beneficiaries of each type on the Railroad Retirement Board's current payment rolls July 1, 1956, who would be affected or not affected by proposed 10 percent increase in railroad retirement benefit formulas*

Type of benefit	On current payment rolls			Estimated number increased			Estimated number not increased			
	Total	Benefit computed under—		Total	By 10 percent	By less than 10 percent	Total	Monthly compensation, minimum cases	Social security formula cases	Other
		Railroad formula	Social security formula							
Total	650,900	470,400	180,500	413,400	381,400	32,000	237,500	7,000	168,000	62,500
Retirement	321,000	299,000	22,000	298,000	289,000	[1] 9,000	23,000	5,000	18,000	
Pensioners	2,500	2,500		2,500	2,500					
Spouses	114,000	107,000	7,000	44,000	31,000	[2] 13,000	70,000	2,000	5,500	[3] 62,500
Aged widows	153,000	55,000	98,000	59,000	52,000	[4] 7,000	94,000		94,000	
Widowed mothers	11,400	400	11,000	800	400	[4] 400	10,600		10,600	
Children	44,000	2,500	41,500	5,000	2,500	[5] 2,500	39,000		39,000	
Parents	1,100	100	1,000	200	100	[5] 100	900		900	
Survivor (option)	3,900	3,900		3,900	3,900					

[1] Includes 6,000 guaranty cases changed to railroad formula, 3,000 minimums ($69, 4.14 time years of service) changed to monthly compensation minimums.
[2] Includes 11,500 unreduced spouse benefits over $49.36 but less than $54.30 before increase, and 1,500 guaranty cases changed to the railroad formula.
[3] Normal spouse annuity already equal to $54.30.
[4] Includes 5,000 guaranty cases and 2,000 spouse minimums changed to the regular railroad formula.
[5] Guaranty cases changed to the railroad formula.

NOTE.—No provision made for application of the disability freeze under title II of the Social Security Act.

Source: Office of Director of Research, U. S. Railroad Retirement Board, July 19, 1956

TABLE 2.—*Estimated numbers of monthly beneficiaries of each type on the Railroad Retirement Board's current payment rolls July 1, 1956: Number and percent affected and average monthly benefits before and after proposed 10 percent increase in railroad retirement benefit formulas*

Type of benefit	Total on current payment rolls				Total on rolls receiving increase				
	Number	Average benefit		Percent change	Number	Percent of total	Average benefit		Percent change
		Before increase	After increase				Before increase	After increase	
Total	650,900				413,400	64			
Retirement	321,000	$102.10	$111.70	9.4	298,000	93	$104.40	$114.70	9.9
Pensioners	2,500	77.80	85.60	10.0	2,500	100	77.80	85.60	10.0
Spouses	114,000	46.90	48.20	2.8	44,000	39	39.60	42.85	8.2
Aged widows	153,000	50.90	52.40	2.9	59,000	39	40.90	44.65	9.2
Other survivor insurance	56,500	46.00	46.30	.7	6,000	11	35.50	38.50	8.5
Survivor (option)	3,900	45.90	50.50	10.0	3,900	100	45.90	50.50	10.0

Source: Office of Director of Research, U. S. Railroad Retirement Board, July 19, 1956.

HEARINGS AND CONCLUSIONS

Hearings were held on the bills S. 3616 and S. 3654 on May 2 and 3, 1956, by a subcommittee of your committee. The issues during the hearings were directed chiefly to the taxing provisions in the bill. These provisions, however, have been excluded by the committee's amendment. The committee bill is, in essence, a temporary measure

for the purpose of providing an interim modest increase in benefits of 10 percent. This is 5 percent less than the increase proposed in the bill as originally introduced. The reason for the smaller increase proposed in the committee bill is that the financing features of the bill as introduced have not been favorably reported. To delay a much needed increase in benefits until the financial features are worked out would be to shut our eyes to the fact that this session of Congress is about over and that the retired railroad workers and their dependents and survivors, who look to Congress for relief, would be forced to wait at least 6 more months for any increase in benefits. The committee is in agreement with the view that the extra $10 a month, on the average, which the committee bill proposes, would not be an incentive for accelerated retirement. If an employee is forced out of service, or is disabled, he would retire, if eligible, without regard to this bill.

The committee is unanimous in its determination to act promptly at the next session of the Congress on a measure which will finance these increased benefits, regardless of any action which may or may not be taken by other committees of the Congress on related provisions for tax relief. In this connection, the committee has been assured by the Railway Labor Executives Association that preparations are now being made to present to the Congress early next year a plan of financing the railroad retirement system in such a way as to cover adequately the cost of the benefits provided in the committee bill.

Following are letters from officials of the Railway Labor Executives Association concerning this problem:

RAILWAY LABOR EXECUTIVES' ASSOCIATION,
St. Louis, Mo., July 20, 1956.

Senator JOHN F. KENNEDY,
Chairman, Subcommittee on Railroad Retirement,
Senate Committee on Labor and Public Welfare,
Washington, D. C.

DEAR SENATOR KENNEDY: I am writing with reference to S. 3616 and a similar measure, H. R. 9065 by Mr. Harris of Arkansas. As you know, these measures were introduced at the request of the Railway Labor Executives' Association and we have been active in our efforts to secure passage in both Houses of Congress.

In view of the failure of the House Committee on Ways andMeans to act favorably upon one of the most important features of these bills, it would seem that their passage in this Congress is impossible.

After consultation with the leadership of both Houses and with key Members concerned with these problems, our association has agreed to a revision in the text of the Kennedy bill, S. 3616, and the Harris bill, H. R. 9065. We propose now to effectuate an interim increase in benefits as described in the Kennedy bill and the Harris bill of 10 percent. The enactment of this immediate relief for annuitants and pensioners in our system will temporarily ease their burden.

We propose at the next sessions of the Congress to recommend to your committee and to the House committee a new program which will contain adequate financing that will take care of the proposed 10 percent interim increase as well as the improvements to be sought next year.

You may be certain that the Railway Labor Executives' Association is vitally aware of the implications of this request and we make

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it only after the most deliberate and careful consideration. We feel that new factors involving the relationship between the railroad retirement system and the social security system will improve our financial picture and lessen the dangers involved in increasing benefits without immediately increasing revenues. We most certainly intend that our system be financed adequately and you have the assurances of every standard railway labor organization that we shall take every necessary action to provide sufficient revenues for these benefits in the next Congress.

We regret very much that the failure of the House Ways and Means Committee to make a definitive decision on the financing aspects of the present program have made it necessary for the Congress at this point to provide this type of interim annuity relief for retired railroad workers. We are recommending this action only because of our feeling of responsibility to the hundreds of thousands of retired railroad men and women and their dependents throughout the country who are looking to this Congress for relief in their time of need. We urge your committee to adopt the proposed changes in the Kennedy bill in order that this relief may be forthcoming.

Sincerely yours,

G. E. LEIGHTY, *Chairman.*

RAILWAY LABOR EXECUTIVES' ASSOCIATION,
St. Louis, Mo., July 20, 1956.

Memorandum to Senator Kennedy.

The Railway Labor Executives' Association does not believe that the enactment of S. 3616 with the elimination of the revenue features and the scaling down of benefit increases from 15 percent to 10 percent presents a substantial threat to the actuarial soundness of our system. The cost of this 10 percent increase added to the present cost figure of 14.13 percent in our opinion will place the total cost of the system at 15.43 percent of payroll. Thus the level cost of our system would be in excess of present income.

The Railway Labor Executives' Association has always believed, and most actuaries are in agreement, that a system such as ours with a cost figure within 1 percent of payroll is safety financed. If this assumption is correct, the proposed changes in the Kennedy bill would result in an out-of-balance situation, but one which we do not consider poses an immediate threat.

We do not regard this as a dangerous step, especially in view of our belief that the recently enacted social security bill will result in an improvement of our financial picture by reason of the financial interchange between our system and the social security system.

Heretofore in the financial interchange between our system and social security we have received no credit for the existence of the disability provisions of the Railroad Retirement Act. In the future in these interchanges we will receive credit for this disability program.

In addition to these factors which I have mentioned, it is our firm determination to ask the next Congress, immediately upon its convening, to consider another railroad retirement program which will contain adequate financing for this interim increase which we are now recommending.

The Railway Labor Executives' Association has an unbroken record of financial responsibility in its requests to the Congress involving railroad retirement matters. We believe that we have demonstrated a record of good faith in our insistence over the years that this system be adequately financed. We hope that the Congress will have confidence in our judgment when we say that we do not believe that this interim increase will endanger the system and will accept our assurances that we shall cooperate in financing these benefits in the next Congress.

C. T. ANDERSON,
Assistant to the Chairman.

SECTION-BY-SECTION ANALYSIS OF THE COMMITTEE BILL

Section 1 (a) of the committee bill amends section 3 (a) of the Railroad Retirement Act of 1937 by changing the formula for computing railroad retirement annuities. The effect of this is to provide an increase in retirement annuities by slightly more than 10 percent. (A maximum spouse's annuity of $54.30 would not be increased at all, and such annuity in the amount of $49.40 or more, but less than $54.30, would be increased by less than 10 percent.)

Section 1 (b) of the committee bill amends that portion of section 3 (e) of the Railroad Retirement Act of 1937 which precedes the proviso. The effect of this is to provide an increase in the regular minimum annuity through increasing the computation factor of $4.14, in the first alternative formula, by slightly less than 10 percent thereof to "$4.55," and the computation factor of $69, in the second alternative formula, by exactly 15 percent thereof to $75.90. No change is made, however, in the other alternative formula, of the "monthly compensation," so that annuities computed under this formula would not be increased at all. Also, no amendment is proposed regarding the minimum provision requiring the use of the social security formulas so that benefits to which this provision has applied may not be increased by the full 10 percent or, in some cases, at all.

Section 2 (a) of the committee bill increases the maximum and minimum survivor annuity totals (computed in accordance with the regular formulas provided by the Railroad Retirement Act, but not under the minimum provision requiring the use of social security formulas) by exactly 10 percent.

Section 2 (b) of the committee bill amends section 5 (1) (10) of the Railroad Retirement Act so as to increase the "basic amount" (which is the factor for computing survivor annuities) by exactly 10 percent, and thereby increasing survivor annuities to the same extent.

Section 3 of the committee bill provides a flat increase of 10 percent in pensions (i. e., those taken over from the railroad voluntary pension systems), in joint and survivor annuities (i. e., those under the former option provisions) awarded before the effective date of the bill, and in annuities awarded under the Railroad Retirement Act of 1935. The preceding sections of the bill do not apply to these classes of benefits.

Section 4 of the committee bill fixes the dates on which the changes made by the other sections of the bill become effective. The increases in annuities (whether employee, spouse, or survivor) are made effective with respect to all accruals after June 1956 irrespective of whether

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the annuities have been theretofore or thereafter awarded. The increase in lump-sum survivor benefits is made effective with respect to deaths occurring after June 1956. The increase in pension payments would be reflected in the August 1 payment to correspond with the date on which the first increased annuity payments would be made.

CHANGES IN THE EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

RAILROAD RETIREMENT ACT OF 1937

* * * * * * *

COMPUTATION OF ANNUITIES

SEC. 3. (a) The annuity shall be computed by multiplying an individual's "years of service" by the following percentages of his "monthly compensation": [2.76] *3.04* per centum of the first $50, [2.07] *2.28* per centum of the next $100, and [1.38] *1.52* per centum of the next $200.

* * * * * * *

(e) In the case of an individual having a current connection with the railroad industry, the minimum annuity payable shall, before any reduction pursuant to section 2 (a) 3 [or the last paragraph of section 3 (b)], be whichever of the following is the least: (1) [$4.14] *$4.55* multiplied by the number of his years of service, or (2) [$69] *$75.90;* or (3) his monthly compensation: *Provided, however,* That if for any entire month in which an annuity accrues and is payable under this Act the annuity to which an employee is entitled under this Act (or would have been entitled except for a reduction pursuant to section 2 (a) 3 or a joint and survivor election), together with his or her spouse's annuity, if any, or the total of survivor annuities under this Act deriving from the same employee, is less than the amount, or the additional amount, which would have been payable to all persons for such month under the Social Security Act (deeming completely and partially insured individuals to be fully and currently insured, respectively, individuals entitled to insurance annuities under sub-sections (a) and (d) of section 5 to have attained age sixty-five, and individuals entitled to insurance annuities under subsection (c) of section 5 on the basis of disability to be less than eighteen years of age, and disregarding any possible deductions under subsections (f) and (g) (2) of section 203 of the Social Security Act) if such employee's service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act and quarters of coverage were determined in accordance with section 5 (1) (4) of this Act, such annuity or annuities, shall be increased proportionately to a total of such amount or such additional amount.

* * * * * * *

ANNUITIES AND LUMP SUMS FOR SURVIVORS

SEC. 5. (a) * * *

(h) MAXIMUM AND MINIMUM ANNUITY TOTALS.—Whenever according to the provisions of this section as to annuities, payable for a month with respect to the death of an employee, the total of annuities is more than [$30] *$33* and exceeds either (a) [$160] *$176*, or (b) an amount equal to two and two-thirds times such employee's basic amount, whichever of such amounts is the lesser, such total of annuities shall, prior to any deductions under subsection (i), be reduced to such lesser amount or to [$30] *$33*, whichever is greater. Whenever such total of annuities is less than [$14] *$15.40*, such total shall, prior to any deductions under subsection (i), be increased to [$14] *$15.40*.

* * * * * * *

(l) DEFINITIONS.—For the purposes of this section the term "employee" includes an individual who will have been an "employee", and—

(1) * * *

* * * * * * *

(10) The term "basic amount" shall mean—

(i) for an employee who will have been partially insured, or completely insured solely by virtue of paragraph (7) (i) or (7) (ii) or both: the sum of (A) [40] *44* per centum of his average monthly remuneration, up to and including $75; plus (B) [10] *11* per centum of such average monthly remuneration exceeding $75 and up to and including $350, plus (C) 1 per centum of the sum of (A) plus (B) multiplied by the number of years after 1936 in each of which the compensation, wages, or both, paid to him will have been equal to $200 or more; if the basic amount, thus computed, is less than [$14] *$15.40* it shall be increased to [$14] *$15.40*;

(ii) for an employee who will have been completely insured solely by virtue of paragraph (7) (iii): the sum of [40] *44* per centum of his monthly compensation if an annuity will have been payable to him, or, if a pension will have been payable to him, [40] *44* per centum of the average monthly earnings on which such pension was computed, up to and including $75, plus [10] *11* per centum of such compensation or earnings exceeding $75 and up to and including $300. If the average monthly earnings on which a pension payable to him was computed are not ascertainable from the records in the possession of the Board, the amount computed under this subdivision shall be [$33.33] *$36.66*, except that if the pension payable to him was less than [$25] *$27.50*, such amount shall be four-thirds of the amount of the pension or [$13.33] *$14.66*, whichever is greater. The term "monthly compensation" shall, for the purposes of this subdivision, mean the monthly compensation used in computing the annuity;

(iii) for an employee who will have been completely insured under paragrph (7) (iii) and either (7) (i) or (7) (ii): the higher of the two amounts computed in accordance with subdivisions (i) and (ii).

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Calendar No. 2799

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2751

EDUCATION BEYOND THE HIGH SCHOOL

JULY 21 (legislative day, JULY 16), 1956.—Ordered to be printed

Filed under authority of the order of the Senate of July 21 (legislative day, July 16), 1956

Mr. MURRAY, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 4211]

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 4211) to encourage and assist the States in the establishment of State committees on education beyond the high school, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On page 1, line 8, strike out "and".

On page 1, after line 10, insert, "and the impact of the military services on youth,".

On page 2, line 11, after the word "levels" insert:

, including the possibility of coordinating compulsory military service with established programs of institutions of higher education

On page 3, line 10, strike out the period and add:

which committee insofar as practicable shall be composed of educators and educational administrators fairly representative of the large and small universities and colleges and geographically representative of the Nation.

On page 4, after line 7, add a new section as follows:

SEC. 6. The President's Committee on Education Beyond the High School shall make its final report in writing to the President and to the Congress no later than December 31, 1957.

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PURPOSE OF THE BILL

The bill (S. 4211) is designed to focus the attention of the entire Nation on the mounting problems in the field of education beyond the high school as they relate to the Nation's growing need for trained manpower in all professional fields. The Federal Government is authorized to encourage and stimulate interest and action on the part of local and State governments, public and private institutions, professional and lay individuals, and groups throughout the Nation in the development of sound plans to meet the impending demands upon our educational system through a program of studies and planning conferences to be conducted at the local and State level and participated in by representatives of all segments of our society.

This program will be under the general direction of the President's Committee on Education Beyond the High School. Administrative responsibility is vested in the Commissioner of Education within the Department of Health, Education, and Welfare.

BACKGROUND

In a special message to the Congress on January 12, 1956, the President expressed concern about the growing problems in the field of education beyond the high school and indicated that he felt immediate action to develop proposals to meet the problems in this field was needed. He said:

> Shortages now exist in medicine, teaching, nursing, science, engineering, and in other fields of knowledge which require education beyond the level of the secondary school. Changing times and conditions create new opportunities and challenges. There are now possibilities for older persons, properly trained, to lead more productive and rewarding lives. The tide of increasing school enrollment will soon reach higher educational institutions. Within 10 years we may expect 3 students in our colleges and universities for every 2 who are there now.
>
> Higher education is and must remain the responsibility of the States, localities, and private groups and institutions. But to lay before us all the problems of education beyond high schools, and to encourage active and systematic attack on them, I shall appoint a distinguished group of educators and citizens to develop this year, through studies and conferences, proposals in this educational field. Through the leadership and counsel of this group, beneficial results can be expected to flow to education and to the Nation, in the years ahead.

The fact that this concern was shared by interested citizens generally was indicated in the final report of the Committee for the White House Conference on Education. That report stated:

> We recommend that a White House Conference on Higher Education, similar in scope to the program just concluded on the needs of elementary and secondary schools, be held promptly to consider the many complex problems facing, or soon to face, the Nation's colleges and universities. This committee believes there is yet time to acquaint the American people with their imminent needs in higher education,

but the time grows shorter and shorter. The flood of students now in the elementary and secondary schools is not far away from the colleges. If the people of the United States expect to attract more and more students into college, they must begin preparing for them now.

Officials of the Department of Health, Education, and Welfare including the Secretary and the Commissioner of Education consulted with a wide range of educators, lay citizens, scientists, Government officials, and community leaders in order to get suggestions as to the best way in which to proceed in considering the needs of education beyond the high school. They found these leaders were conscious of an urgent need to stimulate action in this field on the part of private and public institutions and on the part of Government agencies at the local and State and Federal levels. These leaders pointed to the need for more trained manpower in the fields of science and engineering and, in fact, all professional fields; they stressed the increasing problems in connection with the growth of our population; they noted the increasing need for trained manpower in our public and private international enterprises; and they pointed out the effects of education of the changing nature of our labor force and our general economy. They advised that a program similar in nature, but probably different in procedure, to the White House Conference on Education seemed essential and urgent if the people of this country were to take the steps required to provide the necessary supply of trained manpower both for the present and the future.

It was upon the recommendation of the Secretary of Health, Education, and Welfare that the President appointed a representative committee of eminent lay citizens and educators to examine these national needs, to advise him on the need for and the methods to be used to develop planning and action by institutions, States, and the Federal Government to meet manpower and other educational needs beyond the high school.

On April 19, 1956, the President appointed a Committee on Education Beyond the High School consisting of 33 members and in recognition of the importance of immediate action the President allocated $50,000 from his emergency fund to assist the Committee in commencing its deliberations. On April 27, 1956, the Committee held its first meeting and agreed on the following basic objectives:

First, to collect, assemble, and disseminate information for the purpose of increasing public awareness of the problems which lie ahead in the field of education beyond the high school.

Second, to encourage planning and action which must be undertaken by institutions and groups of institutions locally and nationally, publicly and privately, to meet the mounting demands.

And third, to advise the President as to the proper role of the Federal Government in this field.

In arriving at these objectives the Committee considered a wide range of problems on which facts needed to be assembled and studied and on which planning and action need to be forthcoming. Some of of these problems are as follows:

1. What are the aims which shall guide the provision of education beyond the high school?

2. What must be done to supply the quantity and quality of personnel for science, industry, Government, and education?

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3. What must be done to meet other educational needs of persons with a wide range of abilities and interest before, during, and after their work careers?

4. What must be done to staff the schools and colleges with qualified teachers?

5. How can needed physical facilities be provided for the 5 to 7 million students who will require more classrooms, laboratories, libraries, dormitories, and other facilities of the Nation's colleges and universities by 1970?

6. What will be the annual cost of educating, or of failing to educate, those who will be seeking education for better serving the vocational and other interests of an increasing population?

7. What adjustments may be needed in existing institutions?

8. What, if any, changes in the role of the Federal Government in this field should be effected?

9. What implications are there for higher education in the international and defense activities of the United States?

10. Finally, how in the absence of any State central authority or organization in the field of post-high-school education, can effective state-wide and nation-wide leadership be exerted to awaken public concern and interest in these vital questions?

In its second meeting the President's Committee reached agreement upon the following general method of approach:

(1) The Committee, assisted by a small staff of consultants, would undertake the collection, compilation, and organization of statistics and other information of major scope needed to shed light upon the true dimensions and proportions of the above-mentioned problem areas.

(2) State committees, representative of both educational and lay leaders would be organized by the States to serve as local counterparts to the President's Committee, for the purpose of studying the State picture and stimulating interest and action at the institutional, local, and State levels.

(3) A series of perhaps six regional conferences would be sponsored by the President's Committee, during the fall and winter of 1956–57, in order to help give visibility to the problems and to assist the States in framing the basic issues for consideration at the local and State levels.

(4) Finally the States would then develop their own studies and conferences would be held to crystallize and clarify public views and to encourage local and State activity in the formulation of definite plans to accomplish definite objectives.

The provisions of S. 4211 will enable this program of the President's Committee to be carried forward.

The committee was favorably impressed by a series of supporting statements introduced into the record from a variety of educational and citizen groups. We would call attention particularly to the following excerpts from a statement made by the American Council on Education, on behalf of the American Association of Land-Grant Colleges and State Universities, the Association of American Colleges, the Association for Higher Education of the National Education Association, the National Association of State Universities, and the State Universities Association:

Mr. Chairman, passage of the legislation before you is necessary in order for the President's Committee to continue its valuable work which holds such great promise * * *.

We consider it to be of crucial importance that the President's Committee be granted the $300,000 which is needed to carry on basic operations and to hold the six regional conferences. We also strongly favor approval of the request for $800,000, which will assist the States in accelerating their planning for the future in the area of education beyond the high school.

We are entering a period which will surely test the capacity of our democracy to cope with the most serious problems of modern times. In Walter Lippmann's words:

"We have to do in the educational system something very like what we have done in the Military Establishment during the past 15 years. We have to make a breakthrough to a radically higher and broader conception of what is needed and of what can be done. Our educational effort today, what we think we can afford, what we think we can do, how we feel entitled to treat our schools and our teachers—all of that—is still in approximately the same position as was the military effort of this country before Pearl Harbor."

Mr. Chairman, it is our conviction that the President's Committee on Education Beyond the High School can help us to make the essential "breakthrough" and that there are sound reasons for the Congress to consider favorably the Committee's request for the funds necessary to the accomplishment of this critical task.

Representing as it does the view of all the major associations in the field of higher education, this statement is, in the opinion of the committee, a strong and compelling endorsement of this bill.

EXPLANATION OF AMENDMENTS

The amendments adopted by the committee are identical to amendments made to a corresponding bill (H. R. 12237) which was reported on July 19, 1956, by the House Committee on Education and Labor. The first two amendments would merely assure that the President's Committee on Education Beyond the High School, in the course of its studies and deliberations, will take into account the effect of required military service and its impact on American youth, as well as possible plans to cordinate compulsory military service and training with existing educational programs in colleges and universities.

The second amendment would give added assurance that the President's Committee on Education Beyond the High School, insofar as practicable, would be composed of educators and educational administrators fairly representative of the large and small universities and colleges and, at the same time, be geographically representative of the Nation. This amendment is not intended to cause a reconstitution of the existing President's Committee on Education Beyond the High School; the objectives of the amendment could be accomplished through additional appointments.

The third amendment was adopted by the committee because it believed that the program would be most effective if completed within the next calendar year.

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EXPLANATION OF THE BILL

Section 1 is a statement of national policy that the impending increases in the enrollment in higher education institutions, the urgent national need for increased numbers of scientists, engineers, teachers, technicians, nurses, and other trained personnel, rapid changes in conditions which necessitate additional education for many adults, the the dependence of the national security on the research and advanced preparation provided by educational institutions makes imperative a need for planning and action throughout the Nation.

Section 2 (a) authorizes an appropriation of $800,000 to be allotted to the States on the basis of their respective populations in order to encourage and assist each State to establish a State committee on education beyond the high school, composed of educators and other interested citizens, to consider educational problems beyond the high school and to make recommendations for appropriate action to be taken by public and private agencies at local, State, regional, and Federal levels.

Section 2 (b) provides that allotments will be paid to each State which, through its governor, or other State official designated by the governor, undertakes to accept and use the funds exclusively for the purpose of establishing a State committee to study educational problems beyond the high school including the expenses of studies and conferences and the reporting of its findings and recommendations to the Commissioner of Education for the use of the President's Committee on Education Beyond the High School. Sums appropriated are to remain available until June 30, 1958.

Section 3 (a) authorizes to be appropriated for fiscal year ending June 30, 1957, and the fiscal year ending June 30, 1958, such sums as the Congress may determine for administrative purposes and the expenses of the President's Committee on Education Beyond the High School.

Section 3 (b) provides that persons while away from their homes or regular places of business at conferences called by the President's Committee, and members of the President's Committee while attending conferences or on other business of the Committee, will be allowed travel expenses including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

Section 3 (c) authorizes the Secretary of Health, Education, and Welfare to appoint, without regard to civil-service laws an executive director at a salary to be fixed by the Secretary, but not in excess of $14,000 per annum.

Section 4 authorizes the Commissioner of Education to accept voluntary donations of funds, equipment, services, and facilities. Section 5 defines the term "State" to include the District of Columbia, Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

CONCLUSION

The committee is convinced that the execution of the program authorized in this bill is a matter of urgent concern to the strength and welfare of the Nation and to the essential well-being of the American people.

O

Calendar No. 2800

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2752

AMENDING THE FEDERAL FOOD, DRUG, AND COSMETIC ACT TO SIMPLIFY PROCEDURES GOVERNING THE PRESCRIBING OF REGULATIONS UNDER CERTAIN PROVISIONS OF SUCH ACT

JULY 21 (legislative day, JULY 16), 1956.—Ordered to be printed

Filed under authority of the order of the Senate of July 21 (legislative day, July 16), 1956

Mr. MURRAY, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany H. R. 9547]

The Committee on Labor and Public Welfare, to whom was referred the bill (H. R. 9547) to amend section 701 of the Federal Food, Drug, and Cosmetic Act so as to simplify the procedures governing the prescribing of regulations under certain provisions of such act, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF LEGISLATION

The purpose of the bill is to simplify the procedures followed by the Food and Drug Administration in making regulations under certain provisions of the Federal Food, Drug, and Cosmetic Act. The bill would remove in specified situations, where the proposed regulations are not controversial, the mandatory requirement of following formal rulemaking procedures.

The legislation would extend the procedural simplification provisions of Public Law 335, 83d Congress. Public Law 335 was limited in its application to regulations establishing standards of identity, standards of quality, or standards of fill of container, for food products. The experience under Public Law 335 has been so gratifying to both industry and government that all concerned desire to have this simplified procedure apply to all regulatory procedures referred to in section 701 of the Federal Food, Drug, and Cosmetic Act. These include labeling for special dietary foods, tolerances for necessary and unavoidable poisonous and deleterious substances in foods, listing of coal-tar colors which may be certified for use in food, drugs, and

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cosmetics, and other provisions calling for rulemaking by the Food and Drug Administration.

The procedural requirements of the present law are unnecessarily burdensome. They require formal hearings, whether a proposed regulation is controversial or not. This results in useless expenditures of time and money by both the Government and the interested industry.

The Subcommittee on Health and Science of the Committee on Interstate and Foreign Commerce in the House of Representatives held hearings on this legislation, in the course of which the sponsor of the bill, a representative of the Department of Health, Education, and Welfare, and the chairman of the legislative committee of the food, drug, and cosmetic law section of the New York State Bar Association testified in favor of this bill.

The committee knows of no opposition to this legislation.

The reports submitted to the House Committee by the Departments of Health, Education, and Welfare, and Justice, and the Executive Office of the President support the proposed legislation, and read as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
June 6, 1956.

Hon. J. PERCY PRIEST,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington 25, D. C.

DEAR MR. CHAIRMAN: This is in response to your request of March 1, 1956, for a report on H. R. 9547, a bill to amend section 701 of the Federal Food, Drug, and Cosmetic Act so as to simplify the procedure governing the prescribing of regulations under certain provisions of such act, and for other purposes.

This bill would extend the procedural simplification provisions of Public Law 335, 83d Congress, 2d session, by removing the requirements of formal rulemaking—public hearing, and establishment of a record of testimony and exhibits on which to base a decision—with respect to certain regulations in cases where the regulation, or amendment or repeal of the regulation, is noncontroversial. The regulations concerned are those dealing with labeling for special dietary foods (sec. 403 (j)), emergency permit control (sec. 404) tolerances for necessary and unavoidable poisonous and deleterious substances in foods (sec. 406 (a)), listing of coal-tar colors which may be certified for use in food, drugs, and cosmetics (secs. 406 (b), 504, and 604), modification of tests and assays prescribed in official compendia or prescribing tests for official drugs where the compendia have no prescribed tests (sec. 501 (b)), listing of chemical derivatives of habit-forming drugs (sec. 502 (d)), and packaging requirements and labeling precautions for drugs liable to deterioration (sec. 502 (h)).

The bill would greatly facilitate the establishment of regulations insofar as they are noncontroversial. It would also simplify hearings on regulations containing both controversial and noncontroversial issues by separating and eliminating the noncontroversial. On the narrow issues about which there is controversy, any interested person affected by a proposed regulation could, by filing a petition, initiate the formal procedure, including a public hearing, establishment of the public record on which our action would be based, and review of our

action in the United States Courts of Appeals. Thus, no substantial rights of any person would be relieved of protection, while government, the public, and industry are relieved of the costs and expenditure of time in holding hearings on points about which all agree.

Experience with Public Law 335, which was limited to regulations establishing standards of identity, quality, and fill of container for food products, has shown that it provides an effective procedure for establishing regulations with a minimum of cost and wasted effort, while at the same time protecting the rights of interested persons.

Your committee's report on H. R. 6434 (which becomes Public Law 335) stated in regard to the proposal to simplify the procedure for food standards issued under section 401 of the act:

"All of the communications received by the committee, including many not a part of the record, and both of the witnesses appearing before the committee, favored the proposed legislation and urged its early enactment. There is no known opposition.

"The consensus of opinion as expressed in these communications and by witnesses appearing before the committee may be fairly stated to be that (*a*) the procedural requirements of the present law are unnecessarily burdensome in that they require formal hearings and all that this implies, whether a proposed regulation is controversial or not, with the resultant useless expenditure of time and money by both the Government and the interested industry, even when all are in agreement as to the proposed regulation; and (b) the proposed legislation is favored by them because it should provide the needed relief from these unnecessary burdens by eliminating the requirement for formal hearings except in instances where such a hearing is desired for the purpose of providing a basis for the judicial review as now provided in the act, should the objecting party find the ultimate regulation still objectionable (H. Rept. 934, 83d Cong., 1st sess.)."

We believe that the amendment of section 701 (e) contained in the bill, which makes the simplification effected by Public Law 335 applicable to the procedure for the other regulations governed by section 701 (e), will prove as noncontroversial in its extension to other regulations as was the prior amendment affecting only the food standards procedure.

The existing law is unnecessarily burdensome, and the proposed bill would afford the required relief. We recommend that it be considered favorably by your committee.

We have also prepared and submitted to the President of the Senate an identical draft bill, with a request that it be considered by the appropriate committee of the Senate. A copy of our letter of transmittal of the draft bill is enclosed for your convenience.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

M. B. FOLSOM, *Secretary.*

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EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., May 7, 1956.

Hon. J. PERCY PRIEST,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of March 1, 1956, requesting the views of the Bureau of the Budget on H. R. 9547, to amend section 701 of the Federal Food, Drug, and Cosmetic Act so as to simplify the procedures governing the prescribing of regulations under certain provisions of such act, and for other purposes.

This bill would extend to eight additional sections of the Federal Food, Drug, and Cosmetic Act the simplified procedures which have proven workable on a more limited scale under the recently enacted Hale amendment. Under this simplified procedure the holding of a hearing prior to the making or changing of a rule is eliminated as a condition precedent to rulemaking, when the proposed rule is not in controversy. From the point of view of the best utilization of scarce legal and other enforcement personnel of the Food and Drug Administration, this bill would represent a change for the better. Furthermore, the Department of Health, Education, and Welfare asserts that no substantial rights of any persons would be jeopardized by this simplified procedure, inasmuch as the bill provides for the right to a full and impartial hearing upon petition by any person who feels that he would be adversely affected by a proposed rule.

This office would have no objection to the enactment of this measure.

Sincerely yours,

ROBERT E. MERRIAM,
Assistant to the Director.

DEPARTMENT OF JUSTICE,
May 14, 1956.

Hon. J. PERCY PRIEST,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 9547) to amend section 701 of the Federal Food, Drug, and Cosmetic Act so as to simplify the procedures governing the prescribing of regulations under certain provisions of such act, and for other purposes.

The purpose of the bill would be accomplished by eliminating the present requirement of the Federal Food, Drug, and Cosmetic Act that hearings be conducted in certain cases although no controversy exists.

The act now provides for two separate procedures pertaining to the issuance of regulations. Section 401 (b) relates to regulations pertaining to standards of identity, quality, and fill of containers for food. Section 701 (e) relates to regulations issued pursuant to eight other sections of the act. Under this latter provision a public hearing is required as a condition precedent to the issuance, amendment, or repeal of any regulation covered. Under section 401 (b) a public hearing need be held only when requested by a person adversely affected by a proposed rulemaking action.

The bill would establish a uniform procedure for the issuance of regulations under the listed sections, and would adopt the provisions of section 401 (b) with respect to public hearings as applicable to all of the sections.

The Department of Justice would have no objection to the enactment of this legislation.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS.
Deputy Attorney General.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTIONS 401 AND 701 (e) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

CHAPTER IV—FOOD

DEFINITIONS AND STANDARDS FOR FOOD

SEC. 401. [(a)] Whenever in the judgment of the Secretary such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container: *Provided*, That no definition and standard of identity and no standard of quality shall be established for fresh or dried fruits, fresh or dried vegetables, or butter, except that definitions and standards of identity may be established for avocados, cantaloupes, citrus fruits, and melons. In prescribing any standard of fill of container, the Secretary shall give due consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material. In the prescribing of any standard of quality for any canned fruit or canned vegetable, consideration shall be given and due allowance made for the differing characteristics of the several varieties of such fruit or vegetable. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Secretary shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. Any definition and standard of identity prescribed by the Secretary for avocados, cantaloupes, citrus fruits, or melons shall relate only to maturity and to the effects of freezing.

[(b) (1) Any action under subsection (a) for the issuance, amendment, or repeal of any regulation shall be begun by a proposal made (A) by the Secretary of his own initiative, or (B) by petition of any interested person, showing reasonable grounds therefor, filed with the

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Secretary. The Secretary shall publish such proposal and shall afford all interested persons an opportunity to present their views thereon, orally or in writing. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall make such order public. Except as provided in paragraph (2), the order shall become effective at such time as may be specified therein, but not prior to the day following the last day on which objections may be filed under such paragraph.

[(2) At any time prior to the thirtieth day after the date on which an order entered under paragraph (1) is made public, any person who will be adversely affected by such order if placed in effect may file objections thereto with the Secretary, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Until final action upon such objections is taken by the Secretary under paragraph (3), the filing of such objections shall operate to stay the effectiveness of those provisions of the order to which the objections are made. As soon as practicable after the time for filing objections has expired, the Secretary shall publish a notice in the Federal Register specifying those parts of the order which have been stayed by the filing of objections and, if no objections have been filed, stating that fact.

[(3) As soon as practicable after such request for a public hearing, the Secretary, after due notice, shall hold such a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the Secretary shall by order act upon such objections and make such order public. Such order shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the order, detailed findings of fact on which the order is based. The Secretary shall specify in the order the date on which it shall take effect, except that it shall not be made to take effect prior to the ninetieth day after its publication unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions. Such order shall be subject to the provisions of section 701 (f) and (g).]

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CHAPTER VII—GENERAL ADMINISTRATIVE PROVISIONS

REGULATIONS AND HEARINGS

SEC. 701. (a) * * *

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[(e) The Secretary, on his own initiative or upon an application of any interested industry or substantial portion thereof stating reasonable grounds therefor, shall hold a public hearing upon a proposal to issue, amend, or repeal any regulation contemplated by any of the following sections of this Act: 403 (j), 404 (a), 406 (a) and (b), 501 (b), 502 (d), 502 (h), 504, and 604. The Secretary shall give appropriate notice of the hearing, and the notice shall set forth the proposal in general terms and specify the time and place for a public hearing to be held thereon not less than thirty days

after the date of the notice, except that the public hearing on regulations under section 404 (a) may be held within a reasonable time, to be fixed by the Secretary, after notice thereof. At the hearing any interested person may be heard in person or by his representative. As soon as practicable after completion of the hearing, the Secretary shall by order make public his action in issuing, amending, or repealing the regulation or determining not to take such action. The Secretary shall base his order only on substantial evidence of record at the hearing and shall set forth as part of the order detailed findings of fact on which the order is based. No such order shall take effect prior to the ninetieth day after it is issued, except that if the Secretary finds that emergency conditions exist necessitating an earlier effective date, then the Secretary shall specify in the order his findings as to such conditions and the order shall take effect at such earlier date as the Secretary shall specify therein to meet the emergency.]

(e) (1) Any action for the issuance, amendment, or repeal of any regulation under section 401, 403 (j), 404 (a), 406 (a) or (b), 501 (b), 502 (d) or (h), 504, or 604, of this Act shall be begun by a proposal made (A) by the Secretary on his own initiative, or (B) by petition of any interested person, showing reasonable grounds therefor, filed with the Secretary. The Secretary shall publish such proposal and shall afford all interested persons an opportunity to present their views thereon, orally or in writing. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall make such order public. Except as provided in paragraph (2), the order shall become effective at such time as may be specified therein, but not prior to the day following the last day on which objections may be filed under such paragraph.

(2) On or before the thirtieth day after the date on which an order entered under paragraph (1) is made public, any person who will be adversely affected by such order if placed in effect may file objections thereto with the Secretary, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Until final action upon such objections is taken by the Secretary under paragraph (3), the filing of such objections shall operate to stay the effectiveness of those provisions of the order to which the objections are made. As soon as practicable after the time for filing objections has expired the Secretary shall publish a notice in the Federal Register specifying those parts of the order which have been stayed by the filing of objections and, if no objections have been filed, stating that fact.

(3) As soon as practicable after such request for a public hearing, the Secretary, after due notice, shall hold such a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested persons may be heard in person or by representative. As soon as practicable after completion of the hearing, the Secretary shall by order act upon such objections and make such order public. Such order shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the order, detailed findings of fact on which the order is based. The Secretary shall specify in the order the date on which it shall take effect. except that it shall not be made to take effect prior to the ninetieth day after its publication unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions.

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Calendar No. 2801

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2753

EXTENDING THE PROGRAMS OF FINANCIAL ASSISTANCE IN THE CONSTRUCTION AND OPERATION OF SCHOOLS IN AREAS AFFECTED BY FEDERAL ACTIVITIES

JULY 21 (legislative day, JULY 16), 1956.—Ordered to be printed

Filed under authority of the order of the Senate of July 21 (legislative day, July 16), 1956

Mr. HILL, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany H. R. 11695]

The Committee on Labor and Public Welfare, to whom was referred the bill H. R. 11695, having considered the same, report favorably thereon, with amendments, and recommend that the bill, as amended, do pass.

The committee amendments are of a technical nature designed to clarify the intent of two provisions of the bill as follows:

Page 5, line 8, insert "or transfer" after "sale".

Page 14, lines 14 and 15, strike "following the sale" and insert in lieu thereof "in which occurred the sale or transfer".

Page 14, line 16, insert "or transfer" after "sale".

GENERAL

Prior to 1950, several programs for Federal operation of schools on military and other reservations and for Federal financial assistance to local school agencies affected by Federal activities, were in existence. These different programs were authorized by several pieces of legislation lacking uniformity in their provisions.

In September 1950, the Congress enacted Public Laws 815 and 874, establishing a new, comprehensive policy for the discharge of Federal responsibilities respecting education in federally affected areas throughout the country, to be administered by the Commissioner of Education.

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Assistance for School Construction

Public Law 815 was enacted in 1950 primarily to deal with the Federal Government's responsibility for aiding school construction in communities that had been burdened with substantial increases in school attendance since June 30, 1939, and up to June 30, 1952, as a result of defense and other Federal activities between those dates. Title II of that law established a formula basis for providing Federal assistance to construct schools in areas which met the qualifying standards.

Public Law 246, approved August 8, 1953, authorized further Federal assistance under a new title III of Public Law 815, in meeting school construction needs in localities overburdened by school-membership increases since June 30, 1952, and up to June 30, 1954, which were attributable to new or increased Federal activities. This amendment also authorized school construction assistance under a new title IV principally for school districts in or near areas with large Indian populations, which had enrolled substantial numbers of children residing on Federal tax-exempt land but which could show no substantial increases in school population in recent years.

Public Law 731, 83d Congress, extended the provisions of title III for an additional 2 years, so as to authorize applications for school construction assistance under that title to be made until June 30, 1956. A later act (Public Law 382), approved August 12, 1955, among other things amended title IV to extend it to June 30, 1956.

Assistance for School Maintenance and Operation

Public Law 874 provides financial assistance for the maintenance and operation of schools in areas affected by Federal activities. This law, originally enacted September 30, 1950, by its terms expired June 30, 1954. Public Law 248, approved August 8, 1953, extended the provisions of this law for an additional 2 years—that is, until June 30, 1956. Public Law 732, approved August 31, 1954, postponed the effective date of the 3 percent "absorption" requirement (added to the law by Public Law 248) for 1 year and the requirement was postponed an additional year, i. e., to June 30, 1956, by Public Law 382, approved August 12, 1955. Public Law 382 also made other amendments to Public Law 874; among them one extending the law to June 30, 1957, the present expiration date.

Need for Extension of Public Laws 815 and 874

There still are many school districts where the federally caused impact of children that is anticipated from new or enlarged Federal installations will create serious shortages of school facilities in the near future. The substantial program of military family housing which was enacted by the 1st session of the 84th Congress and which authorizes the construction of some 100,000 military housing units on Federal property will result in continued impacts on federally affected school districts. The committee is informed that 70,000 of these family housing units have thus far been allocated by the Secretary of Defense and that by September 30, 1956, the Secretary will have committed the entire program of approximately 100,000 units.

In addition, there are some 27,000 housing units authorized to be constructed on Federal property from funds appropriated directly to the Department of Defense.

Large allocations of housing units have already been made on several new and reactivated military bases. When these units are completed and occupied, it will be essential to have available school facilities in the adjoining school districts to accommodate the children of the military personnel. It is also evident that increases in Federal activities not involving new housing projects are taking place in many areas of the country which will require the provision of school facilities for the children of federally connected parents.

Title IV of the act has been extremely helpful in providing school facilities for children living on Federal property, mostly Indian children, in isolated areas of the country. The limitation of 3 years in the operation of this title and the limitation of $20 million on the authorization are not sufficient to complete the program in these remote and isolated areas. There are still a substantial number of applications on file in the Office of Education which cannot be approved because of the limitation on the authorization, and testimony presented to the committee indicates that there are still some school districts that will make applications under this title. This program has been of great benefit in providing school housing for thousands of Indian children for which no housing existed, and has also greatly aided the States in their programs of reorganizing school district boundaries to include in organized school districts Federal Indian reservations that formerly were in unorganized territory.

For the reasons given above, the committee feels that the need for extending both titles III and IV of Public Law 815 for 2 additional years is extremely urgent. The President recommended such an extension in his message of January 12, 1956. The committee also believes that Public Law 874, which expires June 30, 1957, should also be extended an additional year so that both laws will terminate on the same date.

H. R. 11695 would extend Public Law 815 for 2 years and would extend Public Law 874 for an additional year so that the two laws will terminate on the same date, June 30, 1958. In addition, H. R. 11695 would remove the 3 percent "absorption requirement" from Public Law 874 and make several other important amendments to both Public Law 815 and Public Law 874. These amendments are explained below.

TITLE I—AMENDMENTS TO PUBLIC LAW 815

TWO-YEAR EXTENSION OF LAW

The last date for filing applications under titles III and IV of Public Law 815 is June 30, 1956. The bill would change this date to June 30, 1958, and otherwise amend these titles to extend them for 2 additional years.

FLIGHT TRAINING SCHOOLS UNDER CONTRACT WITH AIR FORCE

Section 102 of the bill would amend the definition of Federal property at section 210 (1) of the act to include as Federal property any school providing flight training to members of the Air Force under contractual arrangements with that Department, if the training

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is provided at an airport owned by a State or a political subdivision of that State.

These so-called flight training schools are located on municipal airports which were once federally owned but which were transferred by the Federal Government to the municipalities when their need for military purposes after World War II was completed. The flight training is given to air cadets of the Air Force by a private company under a contract with the Air Force. Because the property on which these schools are operated is not Federal property, the children of persons employed at these schools are not countable for Federal payments under the provisions of sections 305 (a) (1) and (2) of Public Law 815. Under the amendment a local educational agency having in its school membership children of persons who live at any such school, or whose parents are employed at any such school, would be able to count them as children of parents residing or working on Federal property in determining eligibility for, and amount of, payments under these provisions.

Since these children could be counted under section 305 (a) (1) or (2) if the schools were run by the Department of the Air Force on federally owned or leased property, and since this type of contractual arrangement between the Air Force and a local firm is of decided advantage to the Unites States financially and otherwise, the committee believes that the school districts serving these installations should be permitted to count these children as if the school were federally owned or leased.

CHILDREN OF MEMBERS OF THE ARMED FORCES ASSIGNED OVERSEAS OR ELSEWHERE

Section 106 (a) (3) of the bill would change section 305 (a) (2) of the law so as to permit a local educational agency to continue to count children of members of the Armed Forces "as children residing with parents employed on Federal property" for purposes of this paragraph and paragraph (1) of section 305 (a), after their parents have ceased to be employed on Federal property in the same State, or within reasonable commuting distance of the school district, by reason of their assignment overseas or elsewhere. Only a child of a parent who commenced residing in or near the school district of the agency while the parent was on active duty in the Armed Forces could be so counted, and the child could continue to be counted for only so long as his parent continued on active duty with the Armed Forces.

Under the existing law, if a serviceman moves his family with him to his post of duty his children may be counted as federally connected for purposes of Public Law 815 for only so long as he remains in the same State or within reasonable commuting distance of the school his children attend. If he is transferred overseas or to a distant base in the United States, his children can no longer be counted as federally connected under Public Law 815 even though his family remains behind and his children continue to attend the same school. In these situations, the school the children attend continues to have the expense of their education while its revenues and resources are in no wise increased by the parent's transfer.

The amendment would permit the school district to continue to count children after the parent has been transferred overseas just as it does all other federally connected pupils—both in the base year and in the 2-year estimate period, whether the number increases or decreases.

NINETY-DAY LIMITATION ON PRESIDENTIAL FINDING OF DEFENSE AREAS

Section 305 (a) (3) of the act conditions payments under that clause upon a Presidential finding that the applicant school district is located in an area in which a defense plant is being newly established or substantially expanded, that the activities of such plant require a substantial in-migration of defense workers or military personnel, and that there is a shortage of school facilities for the children of these persons. Section 106 (a) (4) of the bill amends this provision to require that a finding of failure to meet any one of these three tests be made within 90 days of the filing of an application for such payments, assuming the application is complete and in all other respects complies with applicable regulations; otherwise the determination of eligibility and amount will be made without regard to this provision.

By Executive order the President has designated the Office of Defense Mobilization as responsible for findings in connection with defense contracts, the Department of Labor for findings regarding in-migration of defense personnel, and the Commissioner of Education for the finding of a critical school facilities situation. The Secretary of Health, Education, and Welfare is responsible for the final determination based on the certifications of these three agencies. Information presented indicated that this finding has taken an average of 5 to 6 months to complete under the present arrangements.

The committee finds that the 5 or 6 months now being taken to make their findings is unduly long. The amendment requiring the Presidential finding to be completed within 90 days following the date on which a school district filed application for assistance is designed to assure that these findings will be expedited and to assure that no school district is penalized by a delay in making the finding.

CHILDREN TO BE TRANSFERRED FROM A GOVERNMENT-OWNED SCHOOL TO A SCHOOL TO BE BUILT AND OWNED BY A LOCAL EDUCATIONAL AGENCY

Section 106 (a) (5) of the bill would amend section 305 (a) of the law to provide for Federal payments in certain situations to aid a local educational agency in constructing an offbase school to house children presently attending a school operated by the agency but owned by the Federal Government. Such payments would be conditioned upon a finding by the Commissioner of Education that the Government-owned school which the children are now attending could more appropriately be used for other school purposes (e. g., where a school now operated as a high school is or will in the near future be needed for elementary-school children and it is more advantageous to all the children concerned to devote it to such use) or that the school facility is no longer available for use by the educational agency. The school agency must also submit with its application under title III of the law a project to build a school for the children to be transferred. If it meets these conditions, the local educational agency can count all federally connected children to be transferred to the new school as an increase in its school membership for purposes of determining whether it meets the eligibility conditions generally applicable and of determining the amount of the payment.

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One such situation is presented by the Naval Ordnance Test Station at Inyokern, Calif., known as China Lake. In this case the naval installation is located in a remote desert area far from the center of the Kern County High School District which had incorporated the area for provision of high-school education to the children living on the station. The Navy, prior to the enactment of Public Law 815, had constructed school facilities on base to accommodate high-school students as well as schools for elementary students. As the base expanded, additional school facilities were added on the base and as families were located outside of the fence surrounding the station, elementary school facilities were also provided outside the installation. Due to provisions of Public Law 815 which require the counting of all available school facilities in determination of unhoused pupils, and which prevent a school district from counting as an increase federally connected pupils transferred from one school it operates to another, the Kern County High School District has been unable to qualify for necessary assistance to provide a new high school which sound planning indicates should be build off base to accomodate students located on and near the station. Additional facilities are also needed for elementary-school children on the base.

The committee understands that both the California State Department of Education and the naval authorities strongly support the use of the present high school on the base for elementary-school purposes and the construction of a new high school outside the fence surrounding the test station. In this way the present onbase facility can be most advantageously used, better school facilities can be provided for all children concerned, and the Federal Government can avoid the obligation of constructing additional school facilities on the Federal property.

The amendment would permit the high-school facilities now available on the station to be used for elementary-school purposes, and enable the high-school district to count the high-school pupils who are thus displaced as without available school facilities and as an increase in its school enrollment, thereby enabling the district to qualify for Federal funds toward the erection of a high school on a site outside the Federal property.

HOUSING PROPERTY AFTER TRANSFER BY UNITED STATES

Section 106 (b) of the bill would further amend section 305 (a) of Public Law 815 to provide that, for purposes of determining increases in federally connected children, children who resided on housing property while the property was federally owned shall not be considered federally connected if the property is sold or otherwise transferred by the United States.

Federal public housing projects are included as Federal property within the provisions of Public Law 815 and thus increases in the number of children who reside in these housing units are counted for payment purposes under Public Law 815. However, when such units are relinquished by the Federal Government such children are no longer counted as residing on Federal property. In most cases the housing units continue to house the same number of children as they did before transfer from Federal ownership, and these children remain in the same local public schools. This in effect results in a decrease

in the number of federally connected children although not in the total number of children in school. In the event the school district has other Federal activities and makes application on account of an increase in school enrollments resulting from these other Federal activities, this increase is offset by the decrease caused by the transfer of Federal housing, and as a result, such a district frequently cannot meet the percentage increase requirements even though it has a very substantial number of federally connected children newly enrolled in its schools.

The amendment provides that children who resided in Federal housing transferred to private ownership or relinquished to a local jurisdiction, shall be removed from the count of federally connected children in the base year from which the increase for eligibility in the increase period is computed. The children so removed shall be counted as nonfederally-connected children both for the base year and for the increase period, and cannot be counted as a decrease in federally connected children in determining eligibility.

A committee amendment to H. R. 11695 clarifies this provision to make it clearly applicable to any kind of transfer from Federal ownership—not just sales in the strict sense.

REDUCTION IN PERCENTAGE REQUIREMENT RELATING TO INCREASES IN NONFEDERALLY CONNECTED CHILDREN

Section 106 (c) of the bill would amend section 305 (d) of Public Law 815 to reduce, from 10 to 7 percent, the percentage increase in nonfederally connected children which a local educational agency must experience to avoid reductions in its Federal payments. Under existing law, if a local educational agency experiences, during the 2-year period ending June 30, 1956, less than a 10-percent increase in nonfederally connected children, the number of federally connected children it can count toward Federal payments will be reduced. Under the amendment a local educational agency would have to have only a 7-percent increase in nonfederally connected children over the 2-year period ending June 30, 1958, in order to avoid a reduction under section 305 (d).

The committee believes that the proposed reduction from 10 to 7 percent is justified on the basis of recent evidence of the national average increase in school enrollments.

EXPEDITING ACTION ON CERTAIN APPLICATIONS

In order to expedite action on applications which involve urgent needs for new schools for increased school enrollments occasioned by new Federal housing projects, section 107 of the bill authorizes the Commissioner of Education to approve applications for payment purposes in such situations in advance of the cutoff dates established by him for priority purposes under section 303 of the law. The first such cutoff date would normally not occur until December 1956. Advance approval in such cases would be given only if the Commissioner determines that it is likely that the needs of the applicant local educational agency would qualify it for priority if the approval were postponed until the cutoff date.

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The main justification for the extension of Public Law 815 at this time is the program of military housing enacted by the 1st session of the 84th Congress. The Department of Defense is proceeding rapidly toward the approval and construction of these housing units on a number of new or reactivated military bases, and the resulting increases in federally connected children will place a heavy impact on the school districts concerned. This impact of additional children often occurs in communities where no adequate school facilities are available and the situation will become extremely critical early in the fall of 1956. The urgency of these situations justifies an amendment which would assure that applications for schools in these cases would be treated expeditiously without impairing the priority system established by the law.

Section 105 (b) of the bill makes a corollary amendment to section 304 (a) of the law so as to fix the date the Commissioner takes official action to set a cutoff date, rather than the cutoff date itself, as the date as of which determinations of available school facilities (i. e., those already built or under contract to be built) are to be made under the extended law.

INCREASE IN TITLE IV APPROPRIATION CEILING

Section 109 of the bill amends section 401 (b) of the act to increase the present $20 million appropriation authorization under title IV of the law to $40 million. The present $20 million ceiling has already been reached and the additional $20 million authorization is necessary for financing this title over the next 2 years.

TITLE II—AMENDMENTS TO PUBLIC LAW 874

1-YEAR EXTENSION OF LAW

Various provisions of the bill would extend Public Law 874 for 1 year so that it will expire June 30, 1958, instead of June 30, 1957.

The need for extending Public Law 874 for 1 more year arises from the necessity of giving the affected school districts some assurances that Public Law 874 payments will be forthcoming for an additional 2-year period. They need this assurance in order to budget soundly for their 1957–58 school years and to avoid the needless and wasteful confusion arising from uncertainty as to the continuance of Federal payments.

ELIMINATION OF THE "ABSORPTION REQUIREMENT"

Section 204 and other provisions of the bill would amend section 3 of the law to, in effect, extend until June 30, 1958, the provisions of Public Law 732, 83d Congress, which (as extended by Public Law 382, 84th Cong.) postponed the so-called absorption requirement until July 1, 1956. However, instead of merely extending Public Law 732 for an additional 2 years the same effect is achieved by substituting for the absorption requirement the pertinent provisions of section 3 of the law as they read before the absorption requirement was enacted.

Under section 3 of Public Law 874, as originally passed, payments were made on the basis of the number of children who reside on Federal property with a parent employed on Federal property (the A children),

and the number of children who reside on Federal property or reside on non-Federal property with a parent employed on Federal property (the B children), if the number of such children in either category met the 3 percent eligibility requirement. Large cities, those with 35,000 or more children in average daily attendance in 1939, had a 6-percent instead of a 3-percent eligibility requirement to meet. Each eligible school district was paid the local share of the per pupil cost of school maintenance and operation (the local contribution rate) for each A child and one-half of this amount for each B child attending its schools. Under this provision a school district meeting the eligibility requirement got paid for all its federally connected children while a school district that did not quite reach the eligibility requirement received no Federal payment.

Under the amendments made by Public Law 248, 83d Congress, payments were to be computed differently, with the number of A children being added to one-half the number of B children; if this totaled 10 or more, the school district would be entitled to the local contribution rate multiplied by the total so obtained, minus 3 percent of the total number of non-federally connected children attending its schools (the so-called 3-percent absorption requirement).

This change would have resulted in elimination of payments under Public Law 874 to several hundred school districts and substantially reduced payments to a number of other districts. This change was not scheduled to go into effect in the 1953–54 school year when Public Law 248 was passed because it was felt that the school districts should have a year in which to make the adjustments necessitated by this 3-percent absorption requirement.

The absorption provision has never been put into effect. Because of the reduction of payments to so many school districts with substantial numbers of federally connected children, the Congress has deferred it each year since its original passage in August 1953. However, it is now scheduled to go into effect for the 1956–57 school year. The bill would eliminate the 3-percent absorption provision from the law entirely and return to the eligibility provisions provided in the law as originally enacted.

In approving the provision which eliminates the 3 percent absorption requirement, the committee does not intend to preclude itself from reexamining this problem in the next session of Congress. The committee is not altogether satisfied that the complete elimination of the 3-percent absorption requirement is justified and fully intends to explore this problem as soon as possible. The committee feels that in some cases school districts might, without serious difficulty, absorb some of the cost of educating federally connected children.

SHIFT TO CURRENT YEAR ATTENDANCE BASIS

Section 202 and other provisions of the bill would provide for the determination of payments under section 3 of the law for the next 2 fiscal years on the basis of a count of the children in average daily attendance during the year for which the payment is to be made, rather than (as under existing law) on the basis of a count of these children in average daily attendance during the year preceding the payment year. Thus, section 3 payments for the fiscal year

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beginning July 1, 1956, will be based on the number of children in average daily attendance during that fiscal year, and similarly payments for the fiscal year beginning July 1, 1957, will be based on that year's attendance. The principal effect of this amendment is to permit local educational agencies to claim section 3 payments immediately for increased numbers of federally connected children newly attending their schools, instead of claiming payments on such children undr section 4 (a) where they have to meet a higher eligiblity condition and must prove actual need for Federal assistance.

Evidence presented to the subcommittee indicated that the benefits that resulted from considering eligibility and making payments on the preceding year's average daily attendance were more than offset by the hardship created for a number of school districts having substantial increases in school enrollments of federally connected children.

Since this change represents a reestablishment of the system of payments under the law as originally enacted and in effect during the fiscal years 1951, 1952, and 1953, other amendments are made to restore various corollary provisions which were in the original section 3 of the law and which were dropped in fiscal year 1954 when payments were shifted to a preceding year basis. These include (*a*) a provision authorizing payments in cases where anticipated school enrollments of federally connected children for a year fail to materialize and occasion loss on the part of the school district (section 206 of the bill), and (*b*) a provision that children for whom a local educational agency could receive payment under section 3 in a year may not be counted under section 4 (sec. 208 of the bill).

Also, in order to expedite and facilitate payments, section 204 (c) of the bill adds to section 3 (c) of the law a provision, comparable to that already in section 4 (a) of the law, authorizing the Commissioner of Education to make section 3 payments on the basis of his estimates as to whether an agency will meet the percentage eligibility requirements; the amount of payments (as distinct from the determinations of eligibility) will continue to be subject to adjustment on the basis of the actual number of children in average daily attendance during the year in question.

CHILDREN OF MEMBERS OF THE ARMED FORCES ASSIGNED OVERSEAS OR ELSEWHERE

This amendment to Public Law 874 made by section 203 of the bill is the counterpart of the amendment to Public Law 815 made by section 106 (a) (3) of the bill, described above. Under Public Law 874, children residing on Federal property with a parent on active duty in the "uniformed services" are counted under section 3 (a) for payment purposes whether or not their parent is stationed on Federal property in the same State or within reasonable commuting distance of the school district. The amendment would add a similar provision to section 3 (b) as respects counting of children residing with a parent employed on Federal property. However, as in the case of the corresponding amendment to Public Law 815, such children would not be counted unless their parent's residence in the community commenced when he was assigned to employment on Federal property in or near the applicant school district, and the parent continues on active duty with the Armed Forces while assigned overseas or elsewhere away from the school district.

BASING SECTION 3 PAYMENTS ON NATIONAL AVERAGE PER PUPIL LOCAL CONTRIBUTION RATE

Section 205 of the bill would set a new minimum local contribution rate—in addition to that already in the law of one-half the average per pupil expenditure in the State—which would be based on the average per pupil local contribution rate in the continental United States but not to exceed in the case of any school district the average per pupil expenditure in the State in which the school district is located. The net effect of this amendment is to provide for any local educational agency a local contribution rate (on which sec. 3 payments are based) which is the highest of the following three: (*a*) The local contribution rate in comparable school districts in the same State, (*b*) one-half the average per pupil expenditure in the State (counting expenditures from whatever source), or (*c*) the national average per pupil local contribution rate but not to exceed the average per pupil expenditure in the State.

Public Law 874 had as its basic principle the concept that the Federal Government would compensate a local school district for the burden imposed on it by the Federal Government and would pay its just share of the school maintenance and operation costs borne from local taxation. To carry out this principle, the law provided that the amount of the payment to any local school agency for children who lived on Federal property, or with a parent employed on Federal property, or both, would be determined by reference to the rate of expenditure for school purposes from local tax revenues in comparable communities in the State. This concept is sound. However, in those States where the State has adopted a plan financed by State revenues of equalizing educational opportunities throughout the State, it has resulted in a disproportionately low per pupil payment, as compared with other States. In recent years the financing of the school systems in many States has moved more and more in the direction of an increase in the proportion of the cost borne by the State and a corresponding decrease in the proportion borne by the locality.

In addition, where the local contribution rate is very low, the school district is usually unable to meet the additional costs connected with the provision of education for an additional impact of children to whom section 3 of the law applies. Where the local contribution rate is reasonably high, the local school agency has been more successful in taking care of these added costs. However, where the local contribution rate is low, the children in the school district, both federally connected and nonfederally connected, have been penalized in many cases by a level of education which is less than that of comparable communities in the State.

For these reasons Public Law 248 added to Public Law 874 a provision establishing a floor to be used as the minimum rate per child in the computation of the Federal payment. Under this provision, the local contribution rate for any school agency in any of the 48 States could not be less than 50 percent of the average per pupil expenditures from all sources made by all school districts in the State. The primary effect of this provision was felt in approximately 15 States.

The inclusion of this provision has been of great benefit to the federally affected communities in those States where a substantial propor-

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tion of the educational costs each year are borne from State funds. It has served to increase the amounts paid for each federally connected child in the States where the local contribution rate was only a fraction of the total cost of education while at the same time there has been no reduction in the amount paid per child in States where other financing systems are in effect. However, there still is a very large gap between the amounts received for each federally connected child in States with high State aid systems and the amounts received in those States with very little State aid.

Under existing law, notwithstanding the minimum rate provision added by Public Law 248, there are 7 States that received less than $90 for each child in the A category while on the other end of the scale there are 11 States where the average payment is more than $200 per child for each federally connected child in the A category. The committee feels that, notwithstanding the fact that the Federal payments under section 3 are based on a loss of local tax revenue because of federally owned property there is too great a disparity between the lower amounts paid in the high-State-aid States and the substantially higher amounts paid in the low-State-aid States.

The bill includes a new provision to reduce this disparity. This amendment does not alter the present method of computing the amount paid each school district (the cost from local sources in comparable school district or the minimum rate of not less than 50 percent of the average per pupil expenditure in the State) but adds a new minimum rate which any school district is entitled to receive of not less than the national average per pupil contribution rate paid under the act the second preceding year from the one for which the computation is being made. This new provision also includes a limitation that no school district can receive a local contribution rate based on the new minimum which is higher than the average per pupil expenditure in the State for the second preceding year.

On page 13 there is a table showing estimated increases resulting from this amendment.

Estimated increase in sec. 3 local contribution rate and entitlement resulting from using national average rate as a new minimum rate (not to exceed State average per capita cost)

[Based on fiscal year 1955 data as of annual report]

State	Actual payments, fiscal year 1955			Estimated effect of new minimum rate			
	Funds received	Average daily attendance [1]	Average local contribution rate	Revised entitlement, new minimum rate	Revised average local contribution rate	State average per capita cost [2]	Percent increase in rate
Total	$68,220,807	470,639	$145.00	$76,973,641	$164.00	----------	13.0
Alabama	885,857	13,609	65.09	1,765,359	129.72	$129.72	99.3
Arizona	600,130	3,703	162.07	635,918	171.73	236.69	6.0
Arkansas	442,644	5,285	83.75	676,866	128.07	136.30	52.9
California	14,804,068	90,696	263.23	15,012,290	165.52	285.42	1.4
Colorado	1,618,308	7,760	208.54	1,620,727	208.86	262.49	.2
Connecticut	1,475,903	6,506	226.85	1,475,903	226.85	289.42	0
Delaware	19,415	118	164.53	19,415	164.53	329.07	0
Florida	1,405,466	13,608	103.28	2,013,910	147.99	201.56	43.3
Georgia	1,349,776	15,740	85.75	2,329,520	148.00	166.02	72.6
Idaho	317,848	2,272	139.90	352,073	154.96	207.52	10.8
Illinois	1,604,006	6,501	246.73	1,604,006	246.73	297.06	0
Indiana	892,542	6,870	129.92	1,067,892	155.44	250.49	19.6
Iowa	318,383	1,462	217.77	318,383	217.77	269.35	0
Kansas	2,913,277	15,862	183.66	2,913,277	183.66	273.96	0
Kentucky	879,186	7,629	115.24	1,022,600	134.04	145.25	16.3
Louisiana	437,817	3,841	113.99	568,394	147.98	228.00	29.8
Maine	552,740	3,494	158.20	570,483	163.28	179.10	3.2
Maryland	2,978,669	24,109	123.55	3,568,132	148.00	238.14	19.8
Massachusetts	1,001,066	4,536	220.69	1,003,398	221.21	253.17	.2
Michigan	713,011	4,942	144.28	780,974	158.03	259.83	9.5
Minnesota	123,375	845	146.01	125,506	148.53	290.40	1.7
Mississippi	418,099	4,178	100.07	442,397	105.89	160.81	5.8
Missouri	720,830	4,897	147.20	772,347	157.72	223.47	7.1
Montana	256,210	1,558	164.45	256,210	164.45	314.43	0
Nebraska	890,149	3,780	235.49	890,149	235.49	245.31	0
Nevada	546,127	3,424	159.50	571,998	167.06	253.18	4.7
New Hampshire	370,789	1,505	246.37	370,789	246.37	240.55	0
New Jersey	1,090,377	5,532	197.10	1,090,377	197.10	296.06	0
New Mexico	1,032,938	8,119	127.22	1,201,612	148.00	255.07	16.3
New York	1,537,478	7,382	208.27	1,537,478	208.27	353.93	0
North Carolina	500,787	5,418	92.43	801,864	148.00	184.86	60.1
North Dakota	176,475	911	193.72	176,475	193.72	253.08	0
Ohio	2,809,841	17,351	161.94	2,970,346	171.19	251.78	5.7
Oklahoma	2,501,145	15,041	166.29	2,633,883	175.11	215.00	5.3
Oregon	446,945	2,256	198.11	446,945	198.11	307.06	0
Pennsylvania	1,315,375	8,666	151.79	1,416,032	163.40	260.52	7.6
Rhode Island	645,247	2,839	227.28	645,247	227.28	266.09	0
South Carolina	858,436	11,910	72.08	1,695,406	142.35	144.16	97.5
South Dakota	571,285	2,872	198.92	571,345	198.92	261.28	0
Tennessee	850,780	10,656	79.84	1,380,177	129.52	140.56	62.2
Texas	4,119,510	35,742	115.26	5,288,742	147.99	223.91	28.4
Utah	781,913	7,525	104.57	1,113,626	147.99	209.15	41.5
Vermont	55,380	252	219.76	55,380	219.76	209.22	0
Virginia	6,691,055	43,542	153.67	7,155,687	164.34	170.98	6.9
Washington	3,103,507	22,406	138.51	3,330,925	148.66	275.42	7.3
West Virginia	44,786	442	101.33	65,342	147.83	180.18	45.9
Wisconsin	421,135	1,703	247.29	421,135	247.29	277.87	0
Wyoming	225,701	1,344	167.93	225,701	167.93	321.19	0

[1] Sec. 3 (a) pupils plus ½ sec. 3 (b).
[2] Ceiling limitation on new minimum rate.

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HOUSING PROPERTY AFTER ITS SALE BY THE FEDERAL GOVERNMENT

This amendment (sec. 211 of the bill), similar to that noted above as made by section 106 (b) of the bill to Public Law 815, would amend the definition of Federal property at section 9 (1) of Public Law 874 to provide that for 1 year following the fiscal year in which any housing property is sold or otherwise transferred by the United States the property will continue to be considered Federal property for purposes of the act, provided it was so considered under Public Law 874 prior to the sale.

Under the act at the present time a school district may count children living on Federal property so long as that property is owned or leased by the Federal Government. As soon as the Federal Government sells property to a private owner or relinquishes it to a local governmental unit the children who live on or whose parents are employed on that property can no longer be counted for payments under section 3 of Public Law 874.

For the past several years the Federal Government has been disposing of the thousands of war housing units constructed for defense purposes during World War II. Testimony presented to the subcommittee showed that in some cases this property did not get onto the tax rolls for 12 months or longer after sale to a private individual. Thus, the school district not only was deprived of the normal tax revenue on such property for an additional year but at the same time could not count the children living on that property for benefits under Public Law 874. Accordingly, the bill provides, for purposes of payments pursuant to the amended law, that any housing property which is considered Federal property for purposes of the act be continued as Federal property for 12 months after the end of the fiscal year in which the sale or other transfer occurred. This period should give sufficient time in most cases for the local taxing authorities to get the property on the tax rolls and collect taxes from it by the time the children will be excluded from the benefits of the act.

A committee amendment slightly revises the language of this provision of the bill to clarify the apparent intent to the above effect. The committee's amendment makes it clear that any divestment of ownership by the United States—whether by sale, relinquishment of title, or other transfer—brings the provision into operation, and that the period in question is the remainder of the fiscal year (July 1 to June 30) in which the transfer occurred plus twelve months.

FLIGHT TRAINING SCHOOLS UNDER CONTRACT WITH THE AIR FORCE AS FEDERAL PROPERTY

This amendment corresponds to that made in the definition of Federal property for purposes of Public Law 815. Such schools would also be considered as Federal property under Public Law 874.

EFFECTIVE DATE

All amendments to Public Laws 815 and 874 would become effective July 1, 1956.

COSTS OF THE PROPOSED AMENDMENTS

It is estimated that a simple extension of Public Law 815 without amendment would cost $140 million for the 2-year period, of which $20 million is for title IV and the remaining $120 million is for title III. The cost of the other amendments is estimated to be $6 million, making the total cost for the 2-year period $146 million.

The annual cost of Public Law 874 for fiscal year 1957 and 1958, without the other amendments made by the bill, is estimated at $79 million and $85 million, respectively. The estimated cost of the additional amendments to the bill is $34 million for each year. Thus the total estimated cost of Public Law 874 is $113 million for fiscal 1957 and $119 million for fiscal 1958, of which approximately $22 million per year is accounted for by the elimination of the 3 percent absorption provision.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 815, EIGHTY-FIRST CONGRESS

AN ACT Relating to the construction of school facilities in areas affected by Federal activities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SURVEYS AND STATE PLANS FOR SCHOOL CONSTRUCTION

* * * * * * *

TITLE II—SCHOOL CONSTRUCTION IN FEDERALLY-AFFECTED AREAS

* * * * * * *

USE OF OTHER FEDERAL AGENCIES; TRANSFER AND AVAILABILITY OF APPROPRIATIONS

SEC. 209. (a) * * *

* * * * * * *

(e) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available during the period beginning July 1, 1951, and ending June 30, [1957] *1959*, for the same purpose as this Act; except that nothing in this subsection or in subsection (d) of this section shall affect the availability during such period of appropriations authorized, prior to the date of enactment of this Act, for the construction of school facilities to be attended by Indian children or appropriations (1) for the construction of school facilities on Federal property under the control of the Atomic Energy Commission, (2) for the construction

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of school facilities which are to be federally operated for Indian children, or (3) for the construction of school facilities under the Alaska Public Works Act, approved August 24, 1949.

DEFINITIONS

SEC. 210. For the purposes of this Act—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes real property which is owned by the United States and leased therefrom and the improvements thereon, even though the lessee's interest, or any improvements on such property, is subject to taxation by a State or a political subdivision of a State or by the District of Columbia. Such term also includes (*A*) real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States, *and* (*B*) *any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State.* Notwithstanding the foregoing provisions of this paragraph, such term does not include (A) any real property used by the United States primarily for the provision of services to the local area in which such property is situated, (B) any real property used for a labor supply center, labor home, or labor camp for migratory farm workers, or (C) any low-rent housing project held under title II of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, the United States Housing Act of 1937, the Act of June 28, 1940 (Public Law 671 of the Seventy-sixth Congress), or any law amendatory of or supplementary to any of such Acts.

* * * * * * *

TITLE III—SCHOOL CONSTRUCTION ASSISTANCE IN AREAS WITH SUBSTANTIAL INCREASES IN FEDERALLY-CONNECTED SCHOOL CHILDREN

PURPOSE AND APPROPRIATION

SEC. 301. The purpose of this title is to provide assistance for the construction of urgently needed minimum school facilities in school districts which, since the school year 1951–1952, have had substantial increases in school membership as a result of new or increased Federal activities. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1954, and for the [three] *five* succeeding fiscal years, such sums as the Congress may determine to be necessary for such purpose.

* * * * * * *

ESTABLISHMENT OF PRIORITIES

SEC. 303. The Commissioner shall from time to time set dates, the last of which shall be not later than June 30, [1956] *1958*, by which

applications for payments under this title with respect to construction projects must be filed. If the funds appropriated under this title and remaining available on any such date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this title have not already been obligated), the Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, for approval of such applications. Only applications meeting the conditions for approval under this title (other than section 306 (b) (3)) shall be considered applications for purposes of the preceding sentence.

FEDERAL SHARE FOR ANY PROJECT

SEC. 304. (a) Subject to section 305 (which imposes limitations on the total of the payments which may be made to any local educational agency), the Federal share of the cost of a project under this title shall be equal to such cost, but in no case to exceed the cost, in the school district of the applicant, of constructing minimum school facilities, and in no case to exceed the cost in such district of constructing minimum school facilities for the estimated number of children who will be in membership of the schools of such agency at the close of the regular school year [1955–1956] *1957–1958* and who will otherwise be without such facilities at such time. For the purposes of the preceding sentence, the number of such children who will otherwise be without such facilities at such time shall be determined by reference to those facilities which [(A) are built or under contract as of the earliest date set by the Commissioner under section 303 on or before which the application for such project is filed, or] *(A) are built or under contract as of the date on which the Commissioner set, under section 303, the earliest date on or before which the application for such project is filed, or* (B) as of the date the application for such project is approved, are included in a project for which funds have been set aside under title II or in a project the application for which has been approved under this title.

LIMITATION ON TOTAL PAYMENTS TO ANY LOCAL EDUCATIONAL AGENCY

SEC. 305. (a) Subject to the limitations in subsections (c) and (d), the total of the payments to a local educational agency under this title may not exceed the sum of the following:

(1) The estimated increase, since the regular school year [1953–1954] *1955–1956*, in the number of children residing on Federal property with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district), multiplied by 95 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; and

(2) The estimated increase, since the regular school year [1953–1954] *1955–1956*, in the number of children residing on Federal property, or residing with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting

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distance from such school district), multiplied by 50 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated. *A child of a parent who commenced residing in or near the school district of such an agency while assigned to employment, as a member of the Armed Forces on active duty, on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district) and who was subsequently assigned elsewhere on active duty as a member of the Armed Forces, shall continue to be considered as residing with a parent employed on such Federal property, for purposes of this paragraph and paragraph (1) of this subsection, for so long as the parent is so assigned;* and

(3) The estimated increase, since the regular school year [1953–1954] *1955–1956*, in the number of children whose membership results directly from activities of the United States (carried on either directly or through a contractor), multiplied by 45 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; but this paragraph (3) shall not apply [unless the school district of such agency is partly or wholly situated within an area with respect to which, for the purposes of this Act, the President finds: (A) that a new defense plant or installation has been or is to be provided therein, or an existing defense plant or installation therein has been or is to be reactivated or its operation substantially expanded, and (B) that substantial in-migration of defense workers or military personnel is required to carry out activities at such plant or installation, and (C) after consultation with the Commissioner, that the minimum school facilities required for the free public education of the children of such defense workers or military personnel are not available] *if, within ninety days following the filing by such agency of an application in accordance with regulations prescribed under section 306 (a), the President finds (A) that no portion of the school district is in an area in which a defense plant or installation has been or is to be provided, or an existing defense plant or installation has been or is to be reactivated or its operation substantially expanded, or (B) that no substantial in-migration of defense workers or military personnel is required to carry out activities at any such plant or installation, or (C) after consultation with the Commissioner, that the minimum school facilities required for the free public education of the children of such defense workers or military personnel are available.* For purposes of this paragraph, the Commissioner shall not consider as activities of the United States those activities which are carried on in connection with real property excluded from the definition of Federal property by the last sentence of paragraph (1) of section 210, but shall (if the local educational agency so elects pursuant to subsection (b)) consider as children whose membership results directly from activities of the United States children residing on Federal property or residing with a parent employed on Federal property.

In computing for any local educational agency the number of children in an increase under paragraph (1), (2), or (3), the estimated number

of children described in such paragraph who will be in the membership of the schools of such agency at the close of the regular school year [1955–1956] *1957–1958* shall be compared with the estimated number of such children in the average daily membership of the schools of such agency during the regular school year [1953–1954] *1955–1956*: "*Provided, That if the Commissioner finds, with respect to a number of such children who during the regular school year 1955–1956 attended school facilities owned by the Federal Government and used by such agency, (A) that such school facilities used for such children can be more appropriately used for different school purposes or are no longer available for school purposes, and (B) that such agency will submit with its application under this title a project to provide school facilities for such children, such children shall be counted as an increase under paragraph (1) or (2) of this subsection as the case may be, and shall be deemed to be without school facilities at the close of the regular school year 1957–1958 for purposes of section 304 (a).*

(b) If two or more of the paragraphs of subsection (a) apply to a child, the local educational agency shall elect which of such paragraphs shall apply to such child.

(c) A local educational agency shall not be eligible to have any amount included in its maximum by reason of paragraph (1), (2), or (3) of subsection (a) unless the increase in children referred to in such paragraph, prior to the application of the limitation in subsection (d), is at least 20 and is equal to at least 5 per centum in the case of paragraph (1) or (2), and 10 per centum in the case of paragraph (3), of the number of all children who were in the average daily membership of the schools of such agency during the regular school year [1953–1954] *1955–1956*, and unless, in the case of paragraph (3), the construction of additional minimum school facilities for the number of children in such increase will, in the judgment of the Commissioner of Education, impose an undue financial burden on the taxing and borrowing authority of such agency: *Provided, That children residing on any housing property which, prior to sale or transfer by the United States, was considered to be Federal property for the purposes of this Act, shall not be considered as having been federally connected in determining the eligibility of the local educational agency under this subsection.*

(d) If (1) the estimated number of non-federally-connected children who will be in the membership of the schools of a local educational agency at the close of the regular school year [1955–1956] *1957–1958* is less than (2) [110] *107* per centum of the number of such children who were in the average daily membership of such agency during the regular school year [1953–1954] *1955–1956*, the total number of children counted for purposes of subsection (a) with respect to such agency shall be reduced by the difference between (1) and (2) hereof. For purposes of this subsection, all children in the membership of a local educational agency shall be counted as non-federally-connected children except children whose membership in the school years [1953–1954 and] 1955–1956 *and 1957–1958* was compared in computing an increase which meets the requirements of subsection (c).

* * * * * * *

APPLICATIONS

SEC. 306. (a) No payment may be made to any local educational agency under this title except upon application therefor which is

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submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him.

(b) The Commissioner shall approve any application if he finds (1) that the requirements of section 205 (b) (1) have been met and that approval of the project would not result in payments in excess of those permitted by sections 304 and 305, (2) after consultation with the State and local educational agencies, that the project is not inconsistent with over-all State plans for the construction of school facilities, and (3) that there are sufficient Federal funds available to pay the Federal share of the cost of such project and of all other projects for which Federal funds have not already been obligated and applications for which, under section 303, have a higher priority: *Provided, That the Commissioner may approve any application for payments under this title at any time after it is filed and before any priority is established with respect thereto under section 303 if he determines that—*

(1) on the basis of information in his possession, it is likely that the urgency of the need of the local educational agency is such that it would have a priority under section 303 which would qualify it for payments under this title when such priorities are established, and

(2) the number of children in the increase under section 305 (a) is in large measure attributable to children who reside or will reside in housing newly constructed on Federal property.

* * * * * * *

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 310. In the case of children who, it is estimated, will reside on Federal property on June 30, [1956] *1958*—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make arrangements for constructing or otherwise providing the minimum school facilities necessary for the education of such children. To the maximum extent practicable school facilities provided under this section shall be comparable to minimum school facilities provided for children in comparable communities in the State. This section shall not apply (A) to children who reside on Federal property under the control of the Atomic Energy Commission, and (B) to Indian children attending federally operated Indian schools. Whenever it will be necessary for the Commissioner to provide school facilities for children residing on Federal property under this section, the membership of such children may not be included in computing under section 305 the maximum on the total of the payments for any local educational agency.

* * * * * * *

TITLE IV—SCHOOL CONSTRUCTION ASSISTANCE IN OTHER FEDERALLY-AFFECTED AREAS

SEC. 401. (a) *

* * * * * * *

(b) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1954, and the [two] *four* succeeding fiscal years such sums, not to exceed [$20,000,000] *$40,000,000* in the aggregate, as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated, other than amounts appropriated for administration, shall remain available until expended, except that after June 30, [1956] *1958*, no agreement may be made to extend assistance under this section.

PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

AN ACT To provide financial assistance for local educational agencies in areas affected by Federal activities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DECLARATION OF POLICY

SECTION 1. * * *

* * * * * * *

FEDERAL ACQUISITION OF REAL PROPERTY

SEC. 2. (a) Where the Commissioner, after consultation with any local educational agency and with the appropriate State educational agency, determines for the fiscal year beginning July 1, 1950, or for any of the [six] *seven* succeeding fiscal years—

(1) that the United States owns Federal property in the school district of such local educational agency, and that such property (A) has been acquired by the United States since 1938, (B) was not acquired by exchange for other Federal property in the school district which the United States owned before 1939, and (C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 per centum or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired); and

(2) that such acquisition has placed a substantial and continuing financial burden on such agency; and

(3) that such agency is not being substantially compensated for the loss in revenue resulting from such acquisition by (A) other Federal payments with respect to the property so acquired, or (B) increases in revenue accruing to the agency from the carrying on of Federal activities with respect to the property so acquired.

then the local educational agency shall be entitled to receive for such fiscal year such amount as, in the judgment of the Commissioner, is

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equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property, to the extent such agency is not compensated for such burden by other Federal payments with respect to the property so acquired. Such amount shall not exceed the amount which, in the judgment of the Commissioner, such agency would have derived in such year, and would have had available for current expenditures, from the property acquired by the United States (such amount to be determined without regard to any improvements or other changes made in or on such property since such acquisition), minus the amount which in his judgment the local educational agency derived from other Federal payments with respect to the property so acquired and had available in such year for current expenditures.

* * * * * * * *

CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY

CHILDREN OF PERSONS WHO RESIDE AND WORK ON FEDERAL PROPERTY

SEC. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, [1957] *1958*, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during [the preceding] *such* fiscal year, and who, while in attendance at such schools, resided on Federal property and (1) did so with a parent employed on Federal property situated in whole or in part in the same State as the school district of such agency or situated within reasonable commuting distance from the school district of such agency, or (2) had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949).

CHILDREN OF PERSONS WHO RESIDE OR WORK ON FEDERAL PROPERTY

(b) For such purpose, the Commissioner shall also determine the number of children who were in average daily attendance at the schools of a local educational agency, and for whom such agency provided free public education, during [the preceding] *such* fiscal year [(other than those specified in subsection (a) hereof)] and who, while in attendance at such schools, either resided on Federal property, or resided with a parent employed on Federal property situated in whole or in part in the same State as such agency or situated within reasonable commuting distance from the school district of such agency. *A child of a parent who commenced residing in or near the school district of such an agency while assigned to employment, as a member of the Armed Forces on active duty, on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district) and who was subsequently assigned elsewhere on active duty as a member of the Armed Forces, shall continue to be considered as residing with a parent employed on such Federal property for so long as the parent is so assigned elsewhere. If both subsection (a) and this sub-*

section apply to a child, the local educational agency shall elect which of such subsections shall apply to such child.

[(c) (1) The amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, 1957, shall be an amount equal to (A) the local contribution rate (determined under subsection (d)) multiplied by (B) the sum of the number of children determined under subsection (a) and one-half of the number determined under subsection (b), minus 3 per centum of the difference between such sum and the total number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during the preceding fiscal year; except that no local educational agency shall be entitled to any payment under this section for any fiscal year unless the sum of the number of children determined under subsection (a) and one-half of the number of children determined under subsection (b) is ten or more. Notwithstanding the foregoing provisions of this paragraph, whenever and to the extent that, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this Act, the Commissioner may waive or reduce the 3 per centum deduction, or the requirement of ten or more children, contained in this paragraph, or both.]

(c) (1) The amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, 1958, shall be an amount equal to (A) the local contribution rate (determined under subsection (d)) multiplied by (B) the sum of the number of children determined under subsection (a) and one-half of the number determined under subsection (b).

(2) No local educational agency shall be entitled to receive any payment for a fiscal year with respect to a number of children determined under subsection (a) or subsection (b), as the case may be, unless the number of children who were in average daily attendance during such year and to whom such subsection applies—

(A) is ten or more; and

(B) amounts to 3 per centum or more of the total number of children who were in average daily attendance during such year and for whom such agency provided free public education.

Notwithstanding the provisions of clause (B) of this paragraph, the Commissioner may waive the 3 per centum condition of entitlement contained in such clause whenever, in his judgment, exceptional circumstances exist which would make the application of such condition inequitable and would defeat the purposes of this Act.

(3) Notwithstanding the preceding provisions of this section, where the average daily attendance at the schools of any local educational agency during the fiscal year ending June 30, 1939, exceeded 35,000—

(A) such agency's percentage requirement for eligibility (as set forth in paragraph (2) of this subsection) shall be 6 per centum instead of 3 per centum (and those provisions of such paragraph (2) which relate to the lowering of the percentage requirement shall not apply); and

(B) in determining the number of children under subsection (a) or (b) with respect to whom such agency is entitled to receive payment, the agency shall be entitled to receive payment with respect to only so many of the number of children whose attendance serves as the

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basis for eligibility under such subsection, as exceeds 3 per centum of the number of all children in average daily attendance at the schools of such agency during the fiscal year for which payment is to be made.

[(2)] (4) If—

(A) the amount computed under paragraph (1) for a local educational agency for any fiscal year ending prior to July 1, [1957] *1958*, together with the funds available to such agency from State, local, and other Federal sources (including funds available under section 4 of this Act) is, in the judgment of the Commissioner, less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which, in the judgment of the Commissioner, are generally comparable to the school district of such agency;

(B) such agency is, in the judgment of the Commissioner, making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

(C) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during [the preceding] *such* fiscal year resided on Federal property; and

(D) effective for the fiscal year beginning July 1, 1955, and the [succeeding fiscal year] *two succeeding fiscal years*, the eligibility of such agency under State law for State aid with respect to the free public education of children residing on Federal property, and the amount of such aid, is determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State,

the Commissioner may increase the amount computed under paragraph (1) to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts; except that this paragraph shall in no case operate to increase the amount computed for any fiscal year under paragraph (1) for a local educational agency above the amount determined by the Commissioner to be the cost per pupil of providing a level of education equivalent to that maintained in such comparable school districts, multiplied by the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during [the preceding] *such* year and who resided on Federal property during such [preceding] year, minus the amount of State aid which the Commissioner determines to be available with respect to such children for the year for which the computation is being made.

(5) The determinations whether a local educational agency has met the percentage requirements for eligibility under paragraphs (2), (3), or (4) of this subsection for any fiscal year shall be made on the basis of estimates by the Commissioner made prior to the close of such year, except that an underestimate made by the Commissioner pursuant to the foregoing provisions of this sentence shall not operate to deprive an agency of its entitle-

ment to any payments under this section to which it would be entitled had the estimate been accurate.

LOCAL CONTRIBUTION RATE

(d) The local contribution rate for a local educational agency (other than a local educational agency in Alaska, Hawaii, Puerto Rico, Wake Island, or the Virgin Islands) for any fiscal year shall be computed by the Commissioner of Education, after consultation with the State educational agency and the local educational agency, in the following manner:

(1) he shall determine which school districts within the State are in his judgment [generally] *most nearly* comparable to the school district of the agency for which the computation is being made; and

(2) he shall then divide (A) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which he is making the computation, which the local educational agencies of such comparable school districts made from revenues derived from local sources, by (B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such second preceding fiscal year.

The local contribution rate shall be an amount equal to the quotient obtained under clause (2) of this subsection. If, in the judgment of the Commissioner, the current expenditures in those school districts which he has selected under clause (1) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of the local educational agency for which the computation is being made a level of education equivalent to that maintained in such other districts, the Commissioner may increase the local contribution rate for such agency by such amount as he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. [In no event shall the local contribution rate for any local educational agency in any State in the continental United States for any fiscal year be less than 50 per centum of (i) the aggregate current expenditures, during the second fiscal year preceding such fiscal year, made by all local educational agencies in such State (without regard to the source of the funds from which such expenditures were made), divided by (ii) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such second preceding fiscal year.] *In no event shall the local contribution rate for any local educational agency in any State in the continental United States for any fiscal year be less than (i) 50 per centum of the average per pupil expenditure in such State or (ii) the national average per pupil local contribution rate but not to exceed the average per pupil expenditure in such State. For purposes of the preceding sentence "average per pupil expenditure in such State" means the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in such State (without regard to the sources of funds from which such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such second preceding fiscal year; and*

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"national average per pupil local contribution rate" means the aggregate amounts to which local educational agencies in the continental United States became entitled under section 3 (c) (1) for such second preceding fiscal year, divided by the aggregate number of children used under section 3 (c) (1) in computing such amounts (counting children under section 3 (b) as one-half those under section 3 (a)). The local contribution rate for any local educational agency in Alaska, Hawaii, Puerto Rico, Wake Island, or the Virgin Islands, shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will, in his judgment, best effectuate the purposes of this Act and most nearly approximate the policies and principles provided herein for determining local contribution rates in other States.

CERTAIN FEDERAL CONTRIBUTIONS TO BE DEDUCTED

(c) In determining the total amount which a local educational agency is entitled to receive under this section (other than subsection (c) (2) thereof) for a fiscal year, the Commissioner shall deduct (1) such amount as he determines such agency derived from other Federal payments (as defined in section 2 (b) (1)) and had available in such year for current expenditures (but only to the extent such payments are not deducted under the last sentence of section 2 (a); and, in the case of Federal payments representing an allotment to the local educational agency from United States Forestry Reserve funds, Taylor Grazing Act funds, United States Mineral Lease Royalty funds, Migratory Bird Conservation Act funds, or similar funds, only to the extent that children who reside on or with a parent employed on the property with respect to which such funds are paid are included in determining the amount to which such agency is entitled under this section), and (2) such amount as he determines to be the value of transportation and of custodial and other maintenance services furnished such agency by the Federal Government during such year.

ADJUSTMENT FOR CERTAIN DECREASES IN FEDERAL ACTIVITIES

(f) Whenever the Commissioner determines that—

(1) a local educational agency has made preparations to provide during a fiscal year free public education for a certain number of children to whom subsection (a) or (b) applies;

(2) such preparations were in his judgment reasonable in the light of the information available to such agency at the time such preparations were made; and

(3) such number has been substantially reduced by reason of a decrease in or cessation of Federal activities or by reason of a failure of any of such activities to occur

the amount to which such agency is otherwise entitled under this section for such year shall be increased to the amount to which, in the judgment of the Commissioner, such agency would have been entitled but for such decrease in or cessation of Federal activities or the failure of such activities to occur, minus any reduction in current expenditures for such year which the Commissioner determines that such agency has effected, or reasonably should have effected, by reason of such decrease in or cessation of Federal activities or the failure of such activities to occur.

INCREASES HEREAFTER OCCURRING

SEC. 4. (a) If the Commissioner determines for any fiscal year ending prior to July 1, [1957] *1959*—

(1) that, as a direct result of activities of the United States (carried on either directly or through a contractor), an increase in the number of children in average daily attendance at the schools of any local educational agency has occurred in such fiscal year, which increase so resulting from activities of the United States is equal to at least 5 per centum of the difference between the number of children in average daily attendance at the schools of such agency during the preceding fiscal year and the number of such children whose attendance during such year resulted from activities of the United States (including children who resided on Federal property or with a parent employed on Federal property); and

(2) that such activities of the United States have placed on such agency a substantial and continuing financial burden; and

(3) that such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance but is unable to secure sufficient funds to meet the increased educational costs involved,

then such agency shall be entitled to receive for such fiscal year an amount equal to the product of—

(A) the number of children which the Commissioner determines to be the increase, so resulting from activities of the United States, in such year in average daily attendance; and

(B) the amount which the Commissioner determines to be the current expenditures per child necessary to provide free public education to such additional children during such year, minus the amount which the Commissioner determines to be available from State, local, and Federal sources for such purpose (not counting as available for such purpose either payments under [section 2 of] this Act or funds from local sources necessary to provide free public education to other children).

For the next fiscal year (except where the determination under the preceding sentence has been made with respect to the fiscal year ending June 30, [1957] *1958*) such agency shall be entitled to receive 50 per centum of such product, but not to exceed for such year the amount which the Commissioner determines to be necessary to enable such agency, with the State, local, and other Federal funds available to it for such purpose, to provide a level of education equivalent to that maintained in the school districts in such State which in his judgment are generally comparable to the school district of such agency. The determinations whether an increase has occurred for purposes of clause (1) hereof and whether such increase meets the 5 per centum requirement contained in such clause, for any fiscal year, shall be made on the basis of estimates by the Commissioner made prior to the close of such year, except that an underestimate made by the Commissioner pursuant to the foregoing provisions of this sentence shall not operate to deprive an agency of its entitlement to any payments under this section to which it would be entitled had the estimate been accurate. The determination under clause (B) shall be made by the Commissioner after considering the current expenditures per child

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in providing free public education in those school districts in the State which, in the judgment of the Commissioner, are generally comparable to the school district of the local educational agency for which the computation is being made.

* * * * * * *

[COUNTING OF CERTAIN CHILDREN

[(c) In determining under subsection (a) whether there has been an increase in attendance in any fiscal year directly resulting from activities of the United States and the number of children with respect to whom payment is to be made for any fiscal year, the Commissioner shall not count children whose attendance is attributable to activities of the United States carried on in connection with real property which has been excluded from the definition of Federal property by the last sentence of paragraph (1) of section 9, but shall count as an increase directly resulting from activities of the United States an increase in the number of children who reside on Federal property or reside with a parent employed on Federal property.]

COUNTING OF CERTAIN CHILDREN

(c) In determining under subsection (a) whether there has been an increase in attendance in any fiscal year directly resulting from activities of the United States and the number of children with respect to whom payment is to be made for any fiscal year, the Commissioner shall not count—

(A) children with respect to whom a local educational agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year, and

(B) children whose attendance is attributable to activities of the United States carried on in connection with real property which has been excluded from the definition of Federal property by the last sentence of paragraph (1) of section 9.

METHOD OF MAKING PAYMENTS

APPLICATION

SEC. 5. (a) * * *

* * * * * * *

ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

(c) If the funds appropriated for a fiscal year for making the payments provided in this Act are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies will be entitled to receive under this Act for such year, the Commissioner shall, subject to any limitation contained in the Act appropriating such funds, allocate such funds, other than so much thereof as he estimates to be required for section 6, among sections 2, 3, and 4 (a) in the proportion that the amount he estimates to be required under each such section bears to the total estimated to be required under all such sections. The amount thus allocated to any such section shall be available for payment of a percentage of the amount to which each local educational agency is entitled under such

section (including, in the case of section 3, any increases under [subsection (c) (2)] *subsection (c) (4)* thereof), such percentage to be equal to the percentage which the amount thus allocated to such section is of the amount to which all such agencies are entitled under such section. In case the amount so allocated to a section for a fiscal year exceeds the total to which all local educational agencies are entitled under such sections for such year or in case additional funds become available for carrying out such sections, the excess, or such additional funds, as the case may be, shall be allocated by the Commissioner, among the sections for which the previous allocations are inadequate, on the same basis as is provided above for the initial allocation.

* * * * * * *

USE OF OTHER FEDERAL AGENCIES; TRANSFER AND AVAILABILITY OF APPROPRIATIONS

SEC. 8. (a) * * *

* * * * * * *

(d) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available during the period beginning July 1, 1953, and ending June 30, [1957] *1958*, for the employment of teaching personnel for the provision of free public education for children in any State or for payments to any local eductional agency (directly or through the State educational agency) for free public education for children, except that nothing in the foregoing provisions of this subsection shall affect the availability of appropriations for the maintenance and operation of school facilities (1) on Federal property under the control of the Atomic Energy Commission or (2) by the Bureau of Indian Affairs, or the availability of appropriations for the making of payments directed to be made by section 91 of the Atomic Energy Community Act of 1955, as amended.

DEFINITIONS

SEC. 9. For the purposes of this Act—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes real property which is owned by the United States and leased therefrom and the improvements thereon, even though the lessee's interest, or any improvement on such property, is subject to taxation by a State or a political subdivision of a State or by the District of Columbia. Such term also includes (*A*) real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States: *Provided*, That for the fiscal year, beginning July 1, 1952, and for each succeeding fiscal year, all land lying within the boundaries of the Boulder Canyon Project Reservation shall be considered Federal property; but this proviso shall not be construed as to interfere with State taxation of leasehold interests: *Provided further*, That any tax collected for school purposes on any leasehold interest within the boundaries of the Boulder City Union School District on and after July

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1, 1953, shall be deducted under section 3 (g) of said Act, *(B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any housing property considered prior to such sale to be Federal property for the purposes of this Act, and (C) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State.* Notwithstanding the foregoing provisions of this paragraph, such term does not include (A) any real property used by the United States primarily for the provision of services to the local area in which such property is situated, (B) any real property used for a labor supply center, labor home, or labor camp for migratory farm workers, or (C) any low-rent housing project held under title II of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, the United States Housing Act of 1937, the Act of June 28, 1940 (Public Law 671 of the Seventy-sixth Congress), or any law amendatory of or supplementary to any of such Acts.

* * * * * * *

ELECTION TO RECEIVE CERTAIN PAYMENTS WITH RESPECT TO THE EDUCATION OF INDIAN CHILDREN

SEC. 10. (a) The Governor of any State may elect to have the provisions of this section apply with respect to such State for the fiscal year ending June 30, 1955, or [either of the two] *any of the three* succeeding fiscal years. Notice of such an election shall be filed with the Secretary of the Interior and with the Commissioner of Education before January 1 of the calendar year in which the fiscal year in question begins.

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Calendar No. 2802

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2754

DEVELOPMENT AND REHABILITATION OF THE COASTWISE TRADE

JULY 21 (legislative day, JULY 16), 1956.—Ordered to be printed

Filed under authority of the order of the Senate of July 21 (legislative day, July 16), 1956

Mr. ERVIN, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 11122]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 11122) to promote the development and rehabilitation of the coastwise trade, to encourage the construction of new vessels, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

H. R. 11122 is a companion bill to S. 3877 and passed the House on the Consent Calendar July 16, 1956.

The Senate bill (S. 3877) was reported favorably with amendments by your committee on July 3, 1956. After some discussion on the floor of the Senate, the bill was recommitted to your committee on July 13, 1956, on motion by the reporting Senator for further consideration of amendments suggested by the Department of Commerce and the Bureau of the Budget.

The amendments suggested by the Bureau of the Budget were set out in a letter dated July 6, 1956, and publicized on the floor of the Senate on July 11, 1956. Such amendments were never sent to your committee for consideration, and its first knowledge thereof was when they were publicized on the floor of the Senate. Further, the covering letter from the Bureau of the Budget stated that the memorandum on the suggested amendments had been transmitted to the "House leadership." On July 13, 1956, in answer to an oral request, an official of the Bureau of the Budget advised that the memorandum in question had been sent to the White House.

In any event it appears that on July 6, 1956, only the Bureau of the Budget, the White House, the Maritime Administration, and possibly

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the addressee of the letter and memorandum in question had knowledge of the recommendations. No member of your committee, which has jurisdiction in this field, knew of their existence until July 11, 1956. This is pointed out since our hearings were held June 13 and our report submitted July 3, 1956. We will comment on all of the suggested amendments later in the report.

The amendments to H. R. 11122 by your committee are merely of a typographical nature and correct some errors made in the placing of punctuation. No substantive amendments to the House bill, as passed, were made by your committee.

PURPOSE OF THE BILL

The bill is designed to encourage the construction of a new-type vessel, commonly referred to as the Lift-on, Lift-off type combination dry cargo-tanker and to promote the development and rehabilitation of the coastwise trade. It authorizes and directs the Secretary of Commerce to charter (for 5 years or longer) certain war-built tankers, presently located in the Government laid-up fleet, to qualified applicants as expressed in the bill and determined by the Secretary of Commerce, for use in the United States domestic coastwise trade. The charter hire for each tanker shall be $150,000, per year plus other considerations required by the terms of the bill. These include:

1. Installation of an upper deck in accordance with the requirements of paragraph 1 (F) 1 of the bill and in accordance with plans and specifications approved by the Secretary of Commerce and by the Secretary of the Navy.
2. Construct in a United States shipyard 1 dual purpose cargo-tankship containing the requirements of paragraph 1 (F) 2 for each 2 tankers chartered.
3. Restrict the operation of the new cargo-tankship to the United States domestic coastwise trade for a period of 10 years after its construction.
4. Restrict the operation of each chartered tanker to the United States domestic coastwise trade during the life of the charter.
5. Permit operation of the new cargo-tankship and the chartered tanker in any trade if such operation is for the account of any department or agency of the United States and is approved by the Secretary of Commerce.
6. Redeliver each chartered tanker to the United States in good operating condition, including class, ordinary wear and tear excepted.
7. Agree to other terms and conditions the Secretary of Commerce deems necessary to protect the interests of the United States.

In this regard, the committee feels that the public hearing disclosed two provisions which the Secretary of Commerce should include in every charter executed under the authority contained in this bill. The first is that the charterer insure the vessel at his own expense during the life of the charter and such insurance coverage should include the undepreciated cost (that is, cost less depreciation) of the required deck installation. This is an obligation of the United States to the charterer if the charter is terminated prior to expiration for any reason not the fault of the charterer. Thus, if the vessel becomes a constructive or actual total loss without the charterer being at fault, the United States would be reimbursed for the undepreciated (cost

less depreciation) deck installation cost from the insurance proceeds, which, in turn would be paid to the charterer. Referring to the remaining insurance, the United States should be the assignee of all insurance and, in the event of actual or constructive total loss of the vessel, would distribute the proceeds between the United States and the charterer as their interests may appear. The second provision which should be incorporated into each charter is that the Secretary during a national emergency may terminate the charter upon such notice as the Secretary of Commerce may determine. Further, along this same vein, that the vessels shall be made available to any department or agency of the United States when required to meet the needs of the United States which cannot be met by commercial interests, or to meet emergency requirements short of full mobilization as determined by the Secretary of Commerce.

The language contained in the charter should be so phrased to insure that the tankers are restricted to the coastwise trade during the life of the charter and should not indicate that the charterer may bid for governmental accounts in competition with unrestricted commercial operators and employ the tankers in other than the coastwise trade for Government accounts. Sections 1 (f) (3) and 1 (f) (4) are inserted for the convenience and pleasure of the Government, not the applicant.

Section 2 of the bill permits the charter of tankers only in pairs or multiples of two.

Section 3 enumerates the obligations of the United States. The Government must, at its own expense, place each tanker chartered in good operating condition, including class, before it is chartered. Also, if the charter is terminated for any reason not the fault of the charterer, "the United States shall pay to the charterer the depreciated cost of the deck installation" * * * which "shall be depreciated at the rate of 20 per centum per annum." Lest there be a semantic question arising from the terminology "depreciated cost" and "undepreciated cost", for the purpose of section 3 (b) of the bill, both terms have the same interpretation and meaning. They mean "construction cost less depreciation". Thus, if the charter is canceled at the end of 2 years and the charterer is faultless, the United States shall pay to the charterer 60 percent of the cost of the deck installation, the remaining 40 percent having been depreciated or used by the charterer.

Section 4 of the bill provides the trade-in provisions and credit allowances extended to the charterer by the United States. The bill permits the trade in of two dry-cargo vessels for an allowance of credit against the purchase price of a new cargo-tank ship as described in section 1 (F) 2 but not against the charter hire for a chartered tanker in section 1 (c). The credit allowance shall be paid by the Secretary of Commerce direct to the United States shipbuilder on terms and conditions approved by the Secretary. The dry-cargo vessels traded in must comply with the eight enumerated requirements of section 4 to be eligible for trade-in and credit.

The dry-cargo vessels shall be traded in and title thereto passed to the United States and the credit allowance shall be fixed by the Secretary of Commerce at the time of the execution of the shipbuilding contract for the new cargo-tank ship and such credit allowance shall be not less than the world market value of the dry-cargo vessel for operation under foreign registry. The scrap value and the depreciated value

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based upon a 20-year life need not be considered as is now required by section 510, Merchant Marine Act of 1936. Outstanding mortgage indebtedness to the United States shall reduce the credit allowance and discharge the mortgage. In addition, section 4 permits the rechartering of the traded-in dry-cargo vessel after the United States has taken title and during the time the new cargo tank ship is being constructed at the specified charter hire rate limited only by the time of delivery of the new cargo-tank ship.

Section 5 of the bill explains the tax basis of the new cargo-tank ship.

Section 6 limits the execution of all charters of tankers under the bill to 2 years after the date of enactment of the act. The committee desires to point out that the "charter" referred to in section 6 refers to the tanker charter of section 1 (a) and not the dry-cargo charter of section 4 (a). It is contemplated that the building of the new cargo-tank ships may be extended over a 5-year period and the charter of certain dry-cargo vessels traded in is permitted until such cargo-tank ship is delivered. It is also contemplated, as was brought out at the hearing, that all tanker charters must be executed within 2 years after the enactment of the bill, and the construction contract for the new cargo-tank ship must be executed and approved at the time the tanker charters are executed (that is, signed). In response to questioning on this point, Admiral Ford, Deputy Maritime Administrator, said:

> I would think that when he (applicant) comes in to charter these vessels that he would at that time be able to sign a building contract for each vessel in return for the two chartered vessels.

In answer to the question, "In other words, it is your interpretation that no building contract would be signed after a 2-year period? It would have to be signed within that 2-year period?" Admiral Ford answered: "I would say so; yes".

Later, at the hearing, testifying on the same point, Mr. Malcolm McLean, chairman of the board of Waterman Steamship Corp. and its coastwise affiliate, Pan-Atlantic Steamship Corp., a possible applicant under the bill, stated:

> I interpret that to mean the bill provides for a 2-year period. Anybody who can't act and get the program within that 2-year period will not be able to do so.

With respect to the 2-year period, the following questions and answers are pertinent:

> Then at the time you charter these ships from the Maritime Administration, do you anticipate that you would have the construction contract prepared or executed, or approved within that 2-year period for these new cargo carriers?
>
> Mr. McLean. Yes, sir.
>
> So as a practical matter * * * you would have chartered all 20 ships and have contracted for all 10 new cargo ships within a 2-year period.
>
> Mr. McLean. If we hadn't actually let the contract for the ships we would have traded in two of our C–2 vessels. And we would lose our vessels if we didn't build the ships.
>
> What I was getting at was this: Do you interpret that last section as meaning that you have executed the contracts,

or that you merely have the contracts approved, or discussed at the end of the 2-year period?

Mr. McLEAN. I mean that a contract will have had to be entered into with the Government to charter the vessels *and to build.* [Italics added.]

Later testimony indicated that the building program itself would extend over a 5-year period but that all tanker charter contracts and cargo-tank ship construction contracts must be executed within a 2-year period. This is not true of the dry-cargo charter as it is optional with the charterer as to whether he desires these vessels and conceivably he could charter two dry-cargo vessels under section 5 at any time prior to delivery of the new cargo tank ship.

The Department of Commerce now has 39 tankers under its jurisdiction in the laid-up fleet—17 of which are type T2–SE–A2, which are the speedier and more desirable ships. The Navy has been allocated 10 of these tankers by the Secretary of Commerce for use and has expressed the need of the additional 7 to solve a pressing logistic problem which now confronts it. The bill, as introduced, contained the names of these 17 tankers plus 3 others of type T2–SE–A1, which are 2½ knots slower ships. The bill has been amended to eliminate the 20 tankers by name and enlarging the category to all tankers under the jurisdiction of the Secretary. The committee feels that the Secretary of Commerce is in a better position to effect the actual allocation of the tankers between the Navy and any applicants under the bill. Therefore it suggests that the matter of allocation be worked out administratively rather than through legislation and that the Secretary be fair and reasonable in evaluating the factors involved prior to allocation.

A great deal of testimony has been offered with regard to the cost elements in the bill, namely the charter hire rate of the tankers and the trade-in allowance of the dry-cargo ships. It is true that the tanker charter hire figure may be somewhat low at current market rates and it is equally true that the trade-in allowance is somewhat higher than existing Maritime Administration policy, but not higher than existing law permits. The committee does not agree with the opponents to the bill who say that both figures conceal a subsidy to the applicant. Such opponents must recognize that one of the immediate purposes of the bill is to encourage the construction of new vessels. Each new cargo-tank ship built hereunder will cost approximately $10 million. In addition, the bill contains a safeguard that the new ships must be contracted for within 2 years which places a potential applicant under the bill in a position whereby he must act within a 2-year period, even though the building period may be longer and his personal financial risk will certainly be spread out over a much longer period. In addition, the applicant is entering into a relatively new field, the economics of which are yet to be truly evaluated. The applicant is pioneering in a sense, and pioneering is always a risky and unpredictable venture. Today, in addition to courage, pioneering requires capital and efficient operation.

The charter hire in the amended bill has been fixed at $150,000 per vessel per year. On the basis of a 5-year charter this will return to the Government $750,000 in charter hire. This represents more than 60 percent of the domestic market value for T–2 tankers which have recently been sold or offered for sale. In addition to the charter hire

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of $750,000, the charterer must install, at his expense, on the chartered tanker an upper deck which is estimated to cost at least $200,000 per vessel, making the total charter hire and deck installation cost to charterer $950,000 per vessel.

The bill provides that the trade-in allowance shall be the foreign market value of the vessel traded in. This is estimated to be about $1,600,000 per vessel at the present time. Against the trade-in of 2 obsolete vessels there must be constructed 1 new 32,000-ton supertanker which will cost approximately $10 million. This tanker is restricted to operation in the coastwise trade for 10 years and no allowance for national defense features because of the 18-knot speed will be granted (in some cases recently the Government has paid as much as $1 million for excess speed and this expense will be saved with respect to the new tankers required to be built under this bill). This savings, coupled with the amount of charter hire obtained by the Government for each 2 chartered tankers ($1,500,000) more than eliminates the difference in the domestic market value of the vessel traded in and the foreign market value.

As a practical matter, the committee is cognizant of the fact that this new cargo-tank ship represents the placing into operation of an idea that maritime men have been discussing for years, but upon which no positive action has been taken. The industry itself is one where new ideas and techniques should be welcomed and lauded as they are much more the exception than the rule. Discussion of a new idea merely takes time. Adapting and perfecting it takes time, money, and ingenuity. Placing it into commercial operation in competition with accepted and proven methods of operations requires faith, ability, and risk. Under this bill, the charterer of each 2 tankers will have an initial capital investment of at least $10 million in a vessel whose commercial and economic competence has not been established. Depending upon many factors, which are impossible to evaluate at this time, the venture could be a failure as well as a success. In addition, the charterer has chartered for 5 years, possibly longer, 2 tankers at a fixed charter-hire rate. Whether this rate will work to his advantage or disadvantage over a 5-year period is another elusive question which is well within the realm of conjecture. It is another calculated risk which he must assume in a widely fluctuating market. The dry-cargo vessels traded in are still another insoluble. By today's rates and standards the trade-in price is somewhat high primarily due to existing Maritime Administration policy. On the basis of supply and demand, it is normal. Who is to say that the value of 10 dry-cargo vessels will not continue to increase as ships of this class continue to age without being replaced? Lastly the failure of the applicant to fulfill his building contract results in the complete forfeiture of his traded-in vessels without reimbursement. Every vessel owner realizes the enormity of such a gamble, no matter what the trade-in allowance. Under this bill, an applicant must produce or lose his ships. There is no intermediate area.

The Government, on the other hand, is well protected under the provisions of the bill. The vessels to be built will fill a gap in the American merchant marine fleet, not only from the standpoint of number but by adding a new type of vessel, which we do not have. The new construction will aid our ailing shipyards; the traded-in vessels will augment our reserve fleet and the converted tankers will

afford $750,000 charter hire per ship in addition to the cargo decks, which will become the property of the United States. Lastly, the new cargo tank ships and converted tankers will be available to Government agencies and the military in time of emergency. This factor, coupled with the inestimable value such ships will have as a part of the American merchant marine not only from the standpoint of utility and service but from the even greater concept of stimulus to an industry by the actual implementation of new techniques. Such implementation will be of benefit to the industry as a whole if only to encourage others by example.

AMENDMENTS

The bill as introduced named the tankers that could be chartered under its provisions. The Maritime Administration suggested changing the bill so that any vessel under the jurisdiction of the Secretary of Commerce could be chartered. The bill, as recommended, would allow the charter of any tanker under the Secretary's jurisdiction.

Under existing law dry-cargo vessels under specified circumstances can now be chartered. When Admiral Ford testified, he requested this amendment to open the bill to all vessels and to "eliminate the naming of the ships specifically" (p. 6, Senate committee hearings on S. 3877, June 13, 1956).

Your committee felt that by not specifying the name of the tankers the Maritime Administrator would have greater flexibility in the allocation of these vessels so this amendment was made. However, the committee did not feel it necessary to open the entire reserve fleet to charter to accomplish the purposes of the bill.

The proposed maritime amendments would have the effect of writing a new intercoastal shipping law. This committee does not say that thought should not be given to such a project, but such legislation should be introduced on its own merit and proper hearings held.

The bill as introduced and as recommended required that these tankers be chartered for not less than 5 years. The Maritime Administrator suggests that the period be such as might be set by the Secretary of Commerce, his only reason being that other applicants might wish a shorter charter.

Your committee rejected this amendment since under this bill the charterer will be required to make extensive and expensive alterations to the chartered vessels. He must at his own expense install a cargo deck on each of these tankers which has been estimated to cost approximately $200,000 per ship. It should be remembered that this legislation contains a novel and original idea designed to improve coastwise shipping, which will result in new tanker/cargo vessels and a revival of that trade. It would, we believe, be unfair to set a charter period shorter than that in the bill and thereby possibly deprive those willing to take the risks inherent in this legislation from the opportunity of recouping their investment.

Another amendment suggested by the Maritime Administration, which was also rejected, was to allow a charterer to make such modifications in the vessels as the Secretary of Commerce might approve. It was stated in the hearings before the committee that some charterers might desire to make modifications other than the deck modifications required by this bill. We must again emphasize that the purpose of the legislation is to encourage the construction of new ships and to

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revive the coastwise trade by the adaptation of the most effective modern means such as the combined cargo tankship proposal. It is a package proposition. To allow other changes in vessels that might be of a traditional or minor nature would not fit into the overall plan.

The Maritime Administration recommended that the chartered vessels and the new vessels be allowed to operate in the intercoastal trade as well as the coastwise trade. Admiral Ford, Deputy Maritime Administrator, in his testimony stated:

> The bill would restrict the operation of the vessel to the United States coastwise trade except that it could be operated in any other trade for the account of any agency or department of the United States. If the operation of the vessels in the coastwise trade should become unprofitable, this provision might cause the charterer to default, since, with the exception noted, it prevents the operation of the vessel in any trade except the coastwise trade. This might prevent the construction of the new vessels.

Again your committee must repeat that the purpose of the legislation is to revive the coastwise trade. We must emphasize that if a charterer does default, the United States, which would already hold the title to the trade-in vessels would not be required to pay the shipyards building the new ships the credit allowance of the world market value on the new construction. In other words. if the charterer defaults and the new vessel is not built. the United States retains title to the trade-in vessels and is not obligated to pay the shipyard the credit allowance. In short, the United States receives the two dry-cargo vessels free of cost if the charterer defaults. We quote from the testimony at the hearings of Malcolm McLean, chairman of the board of Waterman Steamship Corp. and its coastwise affiliate, Pan Atlantic Steamship Corp.:

> To show our good faith—and I don't know where it is specifically spelled out in such form that you can see it right here—if we charter these tankers and trade in our C–2 vessels, if we should fail to build the tankers, in case of a steel strike or a terrific calamity, we lose our vessels, we lose $3,200,000 on every 2 ships we charter. So we are putting up $3,200,000 as good faith money to show that we carry forth this program.

The charterer under this bill would be taking comparatively heavy risks and we believe the United States is well protected in the whole plan.

Another suggested amendment from the Maritime Administration was that the trade-in provision of the bill be amended so that the trade-in price would be determined under section 510 of the Merchant Marine Act. Under existing law the Maritime Administration, in determining a fair and reasonable trade-in value of a vessel, must take into consideration (1) the scrap value of the vessel in both the American and in foreign markets, (2) the depreciated value based on a 20-year life, and (3) the market value for operation in the world trade or in foreign or domestic trade of the United States.

This scrap value would undoubtedly represent the lowest value of the vessel. Its market value in foreign or domestic trade would be its highest value. The depreciated value for a stated 20-year period would be somewhere between the other two. This bill, in effect,

instructs the Administrator to apply the highest valuation permitted under existing law. It seems to your committee that our Government should not expect its citizens to sell their property to it at less than its going value, especially when the trade-in allowance is going into a new vessel which will enhance the American merchant fleet. Lest there be some confusion on this point, the committee points out that the credit allowance goes to the shipyard and not the charterer. In addition, the acquisition by the Government of the applicant's dry-cargo vessels will upgrade the reserve fleet and permit the disposal of less desirable vessels now in the fleet.

The point has been raised that these vessels were sold some years back at values considerably below the world market. The committee respectfully points out that this was Government policy at that time, arrived at after due deliberation and consideration by both the executive and legislative branches of the Government. This was shortly after the termination of the last World War and our merchant marine had to have vessels to resume our national policy of free trade and to reestablish a privately owned merchant marine. Your committee believes that the Congress knows the necessity of a strong merchant marine not only for the economic welfare of the United States but as an important arm of defense in time of emergency as well. Besides, with the great increase in the cost of building new ships, not only in the United States but throughout the world, the value of existing ships has risen substantially, particularly in times of peak demand.

The last suggested amendment was to authorize the determination of the charter rate under section 5 of the Merchant Ship Sales Act of 1946 rather than 15 percent of the statutory sales price of the vessel under the Merchant Ship Sales Act of 1946, depreciated to the date of the charter. The bill as introduced would have resulted in an average charter hire of approximately $120,000 per vessel per annum. As amended, the rate of hire is fixed at $150,000 per annum per vessel. This is substantially higher than the charter hire which would have been received under the bill as introduced, and somewhat less than that recommended by the Maritime Administration. Admiral Ford stated in his testimony:

> the Secretary of Commerce now has limited chartering authority under section 5 of the Merchant Ship Sales Act of 1946, as amended. Charters for operation in domestic trade are made under that section at the rate of 8½ percent of the unadjusted statutory sales price or of the floor price, whichever is higher, with an additional 6½ percent, if earned, and with a recapture provision at such rate as appears reasonable under the circumstances.

He also stated:

> the adjusted statutory sales price without regard to floor price of a tanker in the reserve fleet selected at random is approximately $790,000; its floor price is approximately $1,500,000; and its unadjusted statutory sales price is approximately $2 million.

By the Maritime Administration's own figures, the unadjusted statutory sales price of a tanker is approximately $2 million, which is the higher figure between the unadjusted statutory sales price and the

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floor price. Eight and one-half percent of $2 million amounts to $170,000 basic charter hire per vessel per annum which is $20,000 more than required in the amended bill, which, in turn, is $30,000 more than suggested in the original bill. It is true that no provision is made for an additional 6½-percent charter hire if earned nor is there a recapture "provision at such rate as appears reasonable under the circumstances." However, as additional consideration for a charter rate of $150,000 per vessel per annum, the charterer must agree to—

(*a*) A 5-year term which, based on any recent comparable period, will undoubtedly be made up of deep valleys, as well as peaks of profitable employment;

(*b*) the restriction of the chartered vessels to the coastwise trade, except when operated in other trades for the account of a department or agency of the United States;

(*c*) the obligation to install at his own expense the special cargo deck, estimated to cost around $200,000, upon each tanker chartered, a feature strongly desired by the Navy.

(*d*) the obligation to construct costly new high-speed cargo tankships within the 5-year period; and

(*e*) restriction of the new vessels to the domestic coastwise trade for a period of 10 years after their construction, except when operated in other trades for the account of a department or agency of the United States.

The committee feels that such considerations more than offset the obligations incurred under existing law.

Again quoting from Mr. McLean's testimony at the hearing:

> It hasn't been but a little over a year since there were a hundred ships laid up. The tanker people were crying about no business, and 3 ships that we got we paid $800,000 apiece for the first 2. One of them was laid up and didn't run for a year and a half. The other we bought from Ludwig, of the National Bulk Carriers. We paid $775,000 for one and $787,500 for the other. The other we paid $1,275,000 for, recently. It hasn't been long since tankers were a drug on the market.

Under the amended bill the Government would receive $750,000 charter hire for each tanker over the 5-year charter, yet less than 18 months ago Mr. McLean bought 2 tankers for approximately the same price. The time element involved spells out quite clearly the peaks and valleys of the business. If prices fall during the next 18 months, the charterer will still be paying $150,000 per tanker per annum even though he might be able to charter the identical ship on the open market at a much lower rate.

McLean also said:

> Speaking for my company, I know that should the terms of charter hire specified in the bill or should the trade-in allowance prescribed in the bill be substantially changed as recommended by the Maritime Administrator, then we could not and would not be able to comply with the other provisions of the bill.
>
> Our program under the bill contemplates the expenditure of a very substantial amount of our own money and in order to build new vessels and provide expansion of the new service

> we have recently started, we can only do so much, and if the bill only changes existing law so as to in effect provide for the charter of tankers, our company, for one, will not be able to participate.

It is obvious if the charter hire is placed at too high a figure as to be unsound, there would be no applicants under the bill and no new ships would be built.

One premise must be kept in mind in regard to the entire bill; it is simply that as a business proposition, and in order to secure the financing and loans necessary in such a project, the charterer must be in a position to be able to ascertain definitely just what his obligations and his rights are. The committee cannot conceive of a private lending institution supporting this program if the obligations incurred thereunder by the charterer were subject to fluctuation and to administrative decisions during the term of the construction and the chartering contracts. The public interest will be served not only from the standpoint of lower freight rates and improved service but by the addition of new vessels to the American merchant marine. In summing up, McLean stated:

> Senator, we have an earnest, sincere, good program here. It is good for the public, and it is good for the Government and it is good for us. It is good for labor. It will serve 75 percent of the people of the United States in one way or another, in freight rates and actual service.
>
> If we take a 400-mile radius and run it from Maine, a 400-mile radius of all the ports all the way to Portland, Oreg., and Tacoma, Wash., we will serve 75 percent of the field.

The foregoing comments relate to the amendments to the bill proposed by the Maritime Administration. The proposals of the Bureau of the Budget, as we understand them from the Congressional Record of July 11, 1956 (p. 11168 et seq.), are aimed at the charter hire rate and the trade-in rate.

Since the same points were raised by the amendments suggested by the Maritime Administrator, we do not deem it necessary to repeat our reasons for rejecting them, other than the following:

The memorandum stresses the difference between the sales price of the vessels when they were originally sold by our Government and the trade-in allowance under the bill. This difference in figures is set by the memorandum at $650,000 and that amount is called a "hidden subsidy."

Under existing law, the Government is authorized to accept ships at a trade-in value of not less than the world market, as the bill provides. The Maritime Administration has not done this. Despite its great importance the coastwise maritime trade is practically nonexistent today. This bill is designed to revive that trade, and it would force the Administration to take action.

The memorandum as reproduced in the Congressional Record states that the charter hire rate of $150,000 per annum in the bill is $75,000 below the figure as it would be set under existing law. This figure is also characterized as a "hidden subsidy."

Earlier in this report we have set out figures indicating that the charter rate under existing law would be in the neighborhood of $170,000 per year. Whatever the figure may be, these matters were

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considered by the House committee and a figure of $150,000 was selected. Your committee agrees with that amount. As previously stated, this $150,000 is higher than the amount contained in the original bill and lower than figures used by the opponents to the measure. Again we must say that operators taking advantage of this legislation are running heavy risks, that the Government is well protected and that new ships and new ideas will result for the coastwise trade.

This bill is for the improvement of the coastwise trade. It is to get new vessels. It would help move freight—and freight must be moved.

The various letters and reports are attached.

There are no changes in existing law.

We urge that the bill do pass.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, June 14, 1956.

Hon. WARREN C. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your letter of May 18, 1956, enclosing a copy of S. 3877, 84th Congress, 2d session, entitled "A bill to promote the development and rehabilitation of the coastwise trade, to encourage the construction of new vessels, and for other purposes" and inviting our comments thereon.

S. 3877 would authorize the Secretary of Commerce to charter, in multiples of 2, 17 named T2–SE–A2 tankers, 3 named T2–SE–A1 tankers, and such other T2–SE–A1 and T2–SE–A2 tankers as may be applied for. All of the vessels named in the bill are war-built vessels. The charterer would be required to have constructed, in a United States shipyard, 1 new cargo-tankship for each 2 tankers chartered. The bill would also authorize the charterer to trade in 2 war-built dry-cargo vessels in exchange for an allowance of credit to be applied upon the cost of each new cargo-tankship constructed. It would permit the owner of the trade-in vessel to charter it from the Government for any period of time until delivery of the new cargo-tankship.

Inasmuch as the bill proposes to grant authority to the Secretary to charter any T2–SE–A1 and T2–SE–A2 tankers in the reserve fleet for which an application therefor may be received, no purpose is perceived in identifying 17 T2–SE–A1 and 3 T2–SE–A2 tankers by name. At the present time, there are only 17 T2–SE–A2 and 18 T2–SE–A1 tankers in the reserve fleet. The Secretary of Commerce, in a letter dated June 6, 1956, agreed to the permanent transfer of 10 of the T2–SE–A2 tankers to the custody of the Department of the Navy. Also, we have been informed by represntatives of Maritime that the Deparment of the Navy has indicated an intention to request transfer of the remaining seven. In addition, legislation has been introduced for the sale of certain of the tankers named in the bill. We have reference to House Joint Resolution 632 and House Joint Resolution 633.

The actions contemplated by the bill in respect of charters and trade-in of vessels parallel similar actions authorized by the Merchant Marine Act, 1936, and by the Merchant Ship Sales Act of 1946. However, the terms and conditions under which these actions would be authorized in the bill differ in various respects from those specified in the above acts.

Under the bill, the charter-hire rate for any tanker chartered would be 15 percent per year of the tanker's statutory sales price computed as of the date of charter in accordance with the provisions of section 3 (d) of the Merchant Ship Sales Act of 1946, but without regard to the floor price fixed by that section. This differs from the charter provision of the 1946 act in that the statutory price on which the charter hire rate is based cannot be less than the floor price. The significance of the difference is evidenced by the fact that the statutory sales price of a T2–SE–A2 tanker, computed in accordance with the bill, would be approximately $845,000, while the floor price would be approximately $1,600,000. Stated another way, the proposed deletion of the last two sentences of section 3 (d) results in a charter hire of approximately $127,000 per annum while section 3 (d) without such deletion would require charter hire of approximately $240,000 per annum. Charters made under the terms of the Merchant Ship Sales Act of 1946, require that the charter hire agreements contain provisions for additional charter hire in accordance with section 709 (a) of the Merchant Marine Act, 1936. However, the bill does not require that such provisions for additional charter hire be included in the charter hire agreements.

S. 3877 would require the Government to bear the cost of breaking out and laying up and of placing each tanker chartered in good operating condition, including class. It has been the policy of the Administrator to require the charterers to bear such costs initially and to take such costs into account in the determination of additional charter hire. These costs would be substantial if major bulkhead and repair work is required to place a tanker in good operating condition, including class, since Maritime representatives have estimated that the cost per vessel for breaking out and laying up would be approximately $200,000, and for major bulkhead and repair work approximately $750,000. If the charter hire is approximately $127,000 per annum, and major bulkhead and repair work was involved, the charter hire over the 5-year period would not cover the Government's costs. However, the vessel would be returned to the reserve fleet in a considerably improved condition.

The bill would authorize the trade-in of two war-built dry-cargo vessels for each new cargo-tankship constructed. The allowance of credit on each trade-in vessel would be an amount not less than the fair market value of a comparable vessel if sold for operation under foreign registry or flag. This formula constitutes a significant deviation from that provided in section 510 (d) of the 1936 act, which states that the allowance shall be the fair and reasonable value as determined by the Administrator, with consideration to be given to (1) the scrap value, (2) depreciated value, and (3) market value. In other words, the formula in the bill removes the administrative discretion to determine the fair and reasonable value of a trade-in vessel and requires the world market value to be considered a "floor" on the trade-in allowance. No "ceiling" is provided. The effect of the formula in the bill is clearly shown by a recent agreement for the trade-in of 7 war-built dry-cargo vessels on which the trade-in value was determined to be $950,000 per vessel while the foreign market value was reported to be approximately $1,300,000. We believe that the trade-in allowance provisions of this bill should be the same as those of section 510 (d) of the 1936 act.

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Section 1 (f) (2) of the bill provides that the undepreciated cost of the required deck installation shall be recovered by the charterer if the charter is terminated prior to the end of its 5-year term for any reason not the fault of the charterer, or if the vessel becomes a constructive or actual total loss. Such a requirement would appear equitable if the Government terminates the charter prior to its normal expiration and receives the benefit of the upper deck installation. However, we perceive no valid reason for requiring the Government to act as the charterer's insurer of the undepreciated cost of the deck in event of the total loss of the vessel.

Section 1 (f) (3) provides that the chartered vessels are restricted to coastwise trade unless, with approval of the Secretary of Commerce, it operates for the account of any department or agency of the United States in another trade. It is noted that no such exception is provided in section 3, respecting the new cargo-tankships to be constructed.

The declared purposes of the bill are to assist coastwise trade and promote construction of new vessels. This is a matter of national policy for consideration by the Congress. We believe, however, that insofar as may be compatible with the accomplishment of the purposes of the bill, the terms and conditions should be consistent with those specified in existing legislation authorizing the same types of activities.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

DEPARTMENT OF THE NAVY,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, D. C., June 12, 1956.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Your request for comment on S. 3877, a bill to promote the development and rehabilitation of the coastwise trade, to encourage the construction of new vessels, and for other purposes, has been assigned to this Department for the preparation of a report thereon expressing the views of the Department of Defense.

S. 3877 would authorize the Secretary of Commerce to bareboat charter to United States citizens 17 named T2–SE–A2 and 3 named T2–SE–A1 tankers now in the national-defense reserve fleet. It is further provided that the tankers must be chartered in pairs or in multiples of 2 and that, for every 2 chartered, the charterer must agree to have constructed, in United States shipyards, 1 dual-purpose cargo-tankship of not less than 32,000 tons deadweight. If all 20 vessels were chartered, therefore, the charterers would be obliged to contract for the construction of 10 new vessels. In addition, each charterer would be required to install, at his own expense, on each vessel chartered, an upper deck for the carriage of cargo containers.

The Department of Defense supports this bill in principle because it would result in a substantial amount of construction work for private shipyards in the United States and would thereby provide a substantial addition to the mobilization readiness of these shipyards.

There are, however, some technical deficiencies apparent in the bill. Section 11 of the Merchant Ship Sales Act of 1946, as amended (50

U. S. C. App. 1743) provides in part "* * * Unless otherwise provided by law, all vessels placed in such reserve [national-defense reserve fleet] shall be preserved and maintained by the Commission for the purpose of national defense. A vessel placed in such reserve shall in no case be used for any purpose whatsoever except that any such vessel may be used for account of any agency or department of the United States during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936, as amended (46 U. S. C. 1242), and that any such vessel may be used under bareboat charter entered into pursuant to authority vested in the Secretary of Commerce on July 1, 1950, or granted to the Secretary of Commerce after such date." This provision of law makes it evident that the intent of Congress, in creating the national-defense reserve fleet, was to assure the availability of vessels in this fleet to the United States for purposes of national defense.

The foregoing is in part implemented by the memorandum of agreement between the Department of Defense and the Department of Commerce dated July 1, 1954, which states that "Ships of the MSTS operating nucleus fleet which are replaced or no longer required by MSTS will be placed in the national-defense reserve fleet for preservation and would be available to MSTS for use in an emergency."

The national-defense reserve fleet currently contains 35 T2 tankers but this number is subject to continuous change due to a combination of factors:

(*a*) Tankers received from United States citizens under authority of section 510, Merchant Marine Act, 1936 (trade-in and build program);

(*b*) Tankers placed in the reserve by MSTS; or

(*c*) Tankers transferred to MSTS from the national-defense reserve fleet.

In the light of current procedures, it is believed that the wording of the bill, insofar as it specifically names the tankers to be made available for charter may be too restrictive. The changing composition of the reserve as described above precludes practical implementation if the list of vessels to be available is confined to those named in the bill. The actual ships authorized for charter should be resolved by the Maritime Administration and the applicant with the approval of the Secretary of the Navy in each instance. Accordingly, it is recommended that the bill be amended to authorize the Secretary of Commerce to charter T2 tankers to citizens of the United States, without naming vessels or specifying any particular categories of T2 tankers; and further, that provisions be included that the actual tankers chartered will be agreed upon by the Maritime Administration and the charterer subject to the determination of the Secretary of the Navy in each instance that removal of the vessel from the national-defense reserve fleet will not adversely affect the national defense.

In addition, in order to preserve the concept of maintaining the national-defense reserve fleet for national defense, a provision should be included in the bill that the vessels shall be made available to the Department of Defense when required to meet military logistic needs which cannot be met by commercial interests or to meet emergency requirements short of full mobilization. Such a provision would permit the Department of Defense to support private operation of these vessels as opposed to Government operation.

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The legislation should also provide a requirement that the Department of the Navy approve plans for the construction of cargo decks or other proposed conversion to insure that such conversion would not adversely affect the national-defense characteristics of the vessels.

Lastly, the bill should be amended to permit the newly constructed ships to be employed in other than the domestic coastwise trade when operated for the account of any department or agency of the United States.

Subject to incorporation of the foregoing recommended changes to the bill, the Department of the Navy, on behalf of the Department of Defense, favors enactment of S. 3877.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

There has been insufficient time to obtain advice from the Bureau of the Budget as to the relationship of this report to the program of the President.

For the Secretary of the Navy:

Sincerely yours,

W. R. SHEELEY,
Rear Admiral, United States Navy,
Assistant Judge Advocate General of the Navy.

STATEMENT BY CLARENCE G. MORSE, MARITIME ADMINISTRATOR, ON BEHALF OF THE MARITIME ADMINISTRATION AND THE DEPARTMENT OF COMMERCE, BEFORE THE COMMITTEE ON MERCHANT MARINE AND FISHERIES, HOUSE OF REPRESENTATIVES, ON H. R. 11122, JUNE 11, 1956

Gentlemen, H. R. 11122 would authorize and direct the Secretary of Commerce, during the 2 years after enactment of the bill, to bareboat charter to citizens of the United States 20 named T2 tankers, in pairs or in multiples of 2, for charter periods of at least 5 years, for use exclusively in the United States coastwise trade except that with the approval of the Secretary of Commerce such vessels may be operated in any other trade for the account of any department or agency of the United States, at annual charter rates of 15 percent of the statutory sales price of the vessels determined under section 3 (d) of the Merchant Ship Sales Act of 1946, but without regard to the floor price of the vessels of 50 percent of their domestic war cost. The bill further provides that the Secretary shall, at the expense of the United States, place each tanker in good operating condition, including class, before it is chartered. The charters would be subject to the following conditions:

(1) The charterer shall, at his own expense and under plans and specifications approved by the Secretary of Commerce, install on the chartered tankers an upper deck suitable for the carriage of cargo containers having an aggregate capacity of not less than 1,000 tons gross weight.

(2) If the charter is terminated, prior to expiration of the charter period, for any reason not the fault of the charterer, or if the vessel becomes an actual or constructive total loss, the United States shall pay to the charterer the cost of such deck installation less depreciation at the rate of 20 percent per annum.

(3) When redelivered to the United States, the chartered vessel shall be in as good operating condition, including class, as when delivered to the charterer, ordinary wear and tear excepted.

(4) The charterer agrees that for each 2 tankers chartered to him he will cause to be constructed in a United States shipyard 1 tankship of not less than 32,000 deadweight tons, equipped with an upper deck suitable for the carriage of cargo in containers, and having a speed of at least 18 knots, and further agrees that, for a erpiod of 10 years after its construction, the vessel shall be operated only in the United States coastwise trade.

(5) For each dual purpose tankship he constructs, the charterer may trade in to the United States, for an allowance of credit, 2 dry cargo vessels which are not less than 1,500 gross tons each, not less than 12 years old, war-built as defined in section 3 (b) of the Merchant Ship Sales Act of 1946, in class as to hull and machinery satisfactory to the Secretary of Commerce on the date of their physical delivery to the United States, which have been documented under the laws of the United States for at least 3 years immediately preceding their physical delivery to the United States, and which have been owned by the charterer or by a United States citizen affiliate under common ownership with such charterer for not less than 3 years immediately preceding the date of their physical delivery to the United States. The allowance for the dry-cargo vessel shall be fixed, on the date the tanker charter is entered into, at an amount not less than the fair market value for operation under foreign registry on that date, which shall be reduced for use of the traded-in vessel at the rate of 15 percent per annum of the statutory sales price thereof under section 3 (d) of the Merchant Ship Sales Act of 1946. No gain shall be recognized to the charterer or it affiliate on the trade-in of the vessels and there shall be a compensating adjustment of the basis of the new vessel for gain or loss and for depreciation.

(6) Such other terms and conditions as the Secretary of Commerce deems necessary to protect the interests of the United States.

The bill would provide a means of obtaining construction of up to ten new dual-purpose tankers, would aid in rehabilitating the domestic coastwise trade, and would aid in upgrading the national defense reserve fleet. The bill, however, is too narrow in its application and several of its provisions, including the charter rate and trade-in provisions, are not satisfactory. We recommend that consideration be given to amendments hereinafter proposed.

The Department of Commerce now has 35 T2 tankers under its jurisdiction in the laid-up fleet, including the 20 tankers named in the bill. Of the 20 tankers named in the bill, the Navy has requested the permanent transfer to it of 10 of the T2–SE–A2 tankers because it cannot at present charter tankers at reasonable rates. The bill would not permit the chartering of dry cargo vessels in the laid-up fleet as an inducement to the building of new vessels for the domestic trade. Lines 7 through 10, on page 1, and lines 1 through 5, on page 2, should, therefore, be striken out and a comma and the following substituted therefor: "notwithstanding the provisions of section 11 of the Merchant Ship Sales Act of 1946, as amended, and section 510 (h) of the Merchant Marine Act, 1936, as amended, to bar boat charter to citizens of the United States vessels under his jurisdiction". Line 14, page 2, should be amended by striking out the word "tankers" and

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substituting the word "vessels". Line 15, page 2, should be amended by inserting after the word "coastwise" the words "or intercoastal".

Section 1 (c) should be amended by striking out of line 14 the words "tankers eligible for charter" and substituting therefor the words "vessels for which he has applied".

Since some applicants might want to charter a vessel for a period of less than 5 years, the bill should be amended by striking out the language contained in section 1 (d) and substituting therefor the following:

"Each charter made under authority of this Act shall be for such period as the Secretary of Commerce shall determine."

The charter rate provided in the bill is 15 percent per year of the statutory sales price of the vessel under the Merchant Ship Sales Act of 1946, without regard to the floor price. The statutory sales price of a tanker under the 1946 act is 87½ percent of the prewar domestic cost of a tanker of that type, with certain adjustments including a reduction of 5 percent per annum for depreciation from the date of delivery of the vessel by the builder to date of charter, but the price cannot be reduced by these adjustments below the floor price which is 50 percent of the domestic war cost of vessels of the same type. The adjusted statutory sales price, without regard to the floor price, of a tanker in the reserve fleet selected at random is approximately $790,000; its floor price is approximately $1,500,000; and its unadjusted statutory sales price is approximately $2 million.

The Secretary of Commerce now has limited chartering authority under section 5 of the Merchant Ship Sales Act of 1946, as amended. Charters for operation in domestic trade are made under that section at the rate of 8½ percent of the unadjusted statutory sales price or of the floor price, whichever is higher, with an additional 6½ percent, if earned, and with a recapture provision at such rate as appears reasonable under the circumstances. The charter rate provisions in the 1946 act are in our opinion reasonable. The bill should be amended, therefore, by striking out the language contained in section 1 (e) and substituting therefor the following:

"The charter hire for any vessel chartered under this Act shall be determined under section 5 of the Merchant Ship Sales Act of 1946, as amended."

Section 2 of the bill would require the United States to pay the cost of placing the vessels in good operating condition, including class. Some vessels in the reserve fleet are in poor condition and would require extensive repairs, including bulkhead work. The Emergency Ship Repair Act of 1954 directed the Secretary of Commerce to formulate and carry out a program, not exceeding $25 million, of repairing, modernizing, and converting such merchant-type vessels in the national defense reserve as may be necessary to provide an adequate and ready reserve fleet of merchant-type vessels. The purposes of this act were to upgrade the national defense reserve fleet and to place work in shipyards so as to aid in maintaining a proper mobilization base. The bill, H. R. 11122, would serve the same purposes. The cost of this work, therefore, may be considered a proper charge to the United States. Part and perhaps all of this cost would be offset by the charter hire earned under the bill. Section 2 should be amended to strike out the words "tanker eligible" and substituting the word "vessel."

The bill would require the charterer to place skeleton decks on the chartered vessels. From an engineering standpoint, the fitting of skeleton decks on T2–SE–A1 and T2–SE–A2 type tankers is known to be feasible and practical. It may be, however, that not all applicants would want to make this modification of the vessel, and that they would desire to make other modifications. The bill should be amended, therefore, by striking out the language in section 1 (f) (1) and substituting therefor the following:

"The charterer may, at his own expense, make such modifications of the vessel as the Secretary of Commerce approves."

The bill would require the United States to pay the charterer the cost of the skeleton deck depreciated at the rate of 20 percent per annum, if the vessel should become an actual or constructive total loss or if the charter is terminated without the fault of the charterer. The bill also provides that the Secretary of Commerce can place in the charter such conditions as he deems necessary to protect the interests of the United States. Under this provision, we contemplate that two conditions would be placed in the charter—a requirement that the charterer, at his own expense, insure the vessel, and that the Secretary during a national emergency may terminate the charters on such notice as he shall determine. The insurance would be assigned to the United States and, in the event of actual or total constructive loss of the vessel, would be distributed between the United States and the charterer "as their interests may appear." This would be taken care of in the charter. On the other hand, if the United States terminates the charter before the end of the charter period, it seems reasonable to pay the charterer the depreciated cost of the improvement. The bill should be amended, therefore, by striking out the language contained in section 1 (f) (2) and substituting therefor the following:

"If the Secretary of Commerce terminates the charter prior to expiration of the charter period, the United States shall pay the charterer the depreciated cost of any capital improvement he has, with the consent of the Secretary of Commerce, made to the vessel. For the purposes of this subsection, the capital improvement shall be depreciated on a straight line basis over the period of the charter remaining after the capital improvement is completed."

The bill would restrict the operation of the vessel to the United States coastwise trade except that it could be operated in any other trade for the account of any agency or department of the United States. If the operation of the vessels in the coastwise trade should become unprofitable, this provision might cause the charterer to default, since with the exception noted, it prevents the operation of the vessel in any trade except the coastwise trade. This might prevent the construction of the new vessels. Line 18, page 3, should be amended by striking out the word "tanker" and substituting therefor the word "vessel". Lines 21 and 22, of page 3, should be amended by striking out the words "if such operation is for the account of any department or agency of the United States." This would permit operation of the vessels in any other trade with the approval of the Secretary of Commerce.

Section 1 (f) (4) should be amended by striking out the word "tanker" in line 24, page 3, and substituting the word "vessel".

Section 3 of the bill requires the charterers to agree to construct new tankers. Since some applicants may desire to construct some

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other type of vessel, the section should be amended by striking out the first three sentences and substituting therefor the following:

"Each applicant for a charter under this Act shall agree that, within a period to be determined by the Secretary of Commerce, he will cause to be constructed in the United States shipyards a vessel or vessels with utility value not substantially less than that of the vessels chartered to him under this Act, and that for a period of ten years after completion of construction, such new vessel or vessels, except with the approval of the Secretary of Commerce, shall not be operated in any trade other than the United States coastwise or intercoastal trade."

The trade-in provisions of the bill are substantially the same as those contained in section 510 of the Merchant Marine Act, 1938, except—

(1) The bill would fix the trade-in price of the vessels at their world market value for operation under foreign registry, whereas under section 510, scrap value, depreciated value based on a 20-year life, and market value for use in world trade or in the foreign or domestic trade of the United States must be considered in arriving at the trade-in price of the vessels;

(2) The bill would fix the charter hire for use of the traded-in vessels at the rate of 15 percent of the statutory sales price of the dry-cargo vessels, whereas section 510 provides that the charter hire shall be the reasonable value of the use.

The provisions of section 510, with respect to trade-in of vessels, are in our opinion reasonable, and in our opinion should govern the the trade-in of vessels under the bill. The bill should be amended, therefore, by striking out sections 4 and 5 and renumbering section 6 as section 4.

We favor the objective of the bill in the interest of rehabilitating domestic oceangoing shipping, and recommend consideration of the amendments herein proposed. Due to the urgency of the matter, we have presented these comments without securing the final advice of the Department of Commerce or the Bureau of the Budget as to the relationship of H. R. 11122 to the program of the President.

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Calendar No. 2803

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2755

LAND TRANSFER TO CENTRAL, N. MEX.

JULY 21 (legislative day, JULY 16), 1956.—Ordered to be printed

Filed under authority of the order of the Senate of July 21 (legislative day, July 16), 1956

Mr. LEHMAN, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 1494]

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 1494) to authorize the Administrator of Veterans' Affairs to convey to the village of Central in the State of New Mexico, certain lands administered by the Veterans' Administration facility at Fort Bayard, N. Mex., having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

AMENDMENTS

1. On line 3, strike out down through the word "a" on line 7, and insert in lieu thereof the following:

that, subject to section 2 of this act, the Secretary of Agriculture is authorized and directed to sell, at market value as determined by him, and to convey to the village of Central, in the State of New Mexico, for the purpose of residential and business development, the following described lands, formerly.

2. On page 3, insert a new section as follows:

SEC. 2. The conveyance authorized by this Act (1) shall provide that the described land shall not be used in a manner incompatible with the proper and effective operation of the Veterans' Administration Hospital at Fort Bayard, New Mexico, and, if it shall ever be used in such manner, the title to such property shall revert to the United States, which shall have the immediate right of reentry thereon, provided that such reversion shall terminate in the event the Veterans' Administration ceases operation of the hospital, (2) shall

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protect existing valid rights, (3) shall reserve rights of way for existing facilities such as roads, telephone lines, pipe lines, electric power transmission lines, or other facilities or improvements in place, and shall reserve such easements for roads as the Secretary of Agriculture finds necessary to assure access to lands of the United States or to meet public needs, (4) shall reserve to the United States all mineral rights, including gas and oil, in the land so conveyed, and (5) may contain such additional terms, conditions, reservations and restrictions as may be determined by the Secretary of Agriculture or the Administrator of Veterans' Affairs to be necessary to protect the interests of the United States.

3. Amend the title so as to read:

A bill to authorize the Secretary of Agriculture to sell to the village of Central, State of New Mexico, certain lands administered by him formerly part of the Fort Bayard Military Reservation, New Mexico.

EXPLANATION OF THE BILL

The bill as amended authorizes and directs the Secretary of Agriculture, subject to certain reservations and restrictions, to sell, at market value as determined by him, and to convey to the village of Central, in the State of New Mexico, for the purpose of residential and business development a tract of approximately 58 acres of land, described in detail in the bill, constituting part of the Fort Bayard Military Reservation, Grant County, N. Mex.

In 1941 the Forest Service of the Department of Agriculture assumed custody and jurisdiction of approximately 12,174 acres, formerly part of the Veterans' Administration reservation at Fort Bayard which had been declared excess to the needs of the Veterans' Administration. As a condition of the transfer to the Department of Agriculture, the land was restricted so that it could not be subject to appropriation under any of the existing land laws and could not be used in such a manner as would endanger the water supply of the Veterans' Administration hospital at Fort Bayard. The Veterans' Administration presently operates a 220-bed hospital with a preponderance of tuberculous patients on the remaining 640 acres of the tract.

The 58-acre tract which would be sold under this bill is partially contained in a quarter section of land which is contiguous with the present Veterans' Administration reservation. In its report to the committee, which is appended below, the Veterans' Administration recommended that the bill be amended both to state specifically the use to which the land is to be put and to provide that it shall revert to the United States in the event it is used in any way incompatible with the operation of the Veterans' Administration hospital.

The described tract of land which is situated between the south line of the old military reservation and United States Highway 260, adjoins the village of Central and appears to be suitable for development as the town expands. It is reported to include some attractive business and residential sites. It is not needed to assure protection of the hospital watershed. In its report to the committee the Department of Agriculture stated, that insofar as its responsibilities are concerned, disposal of the tract would be unobjectionable. The Department of Agriculture and the Bureau of the Budget both recommended

that the land be sold at fair market value rather than be conveyed without consideration to the village of Central, and proposed a number of specific reservations and restrictions to protect the interests of the United States. The Bureau of the Budget has pointed out that the tract of land in question is public domain land and could be sold under existing legislation, provided the tract were to be used for public purposes. Since it is intended to use the lands for residential and business sites, special legislation authorizing its conveyance is needed.

The bill has been amended in accordance with the recommendations of the interested departments and agencies.

REPORTS OF DEPARTMENTS

DEPARTMENT OF AGRICULTURE,
Washington, D. C., February 17, 1956.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
United States Senate.

DEAR SENATOR HILL: This is in reply to your request of July 19, 1955, for a report on S. 1494, a bill to authorize the Administrator of Veterans' Affairs to convey to the village of Central, State of New Mexico, certain lands administered by the Veterans' Administration facility at Fort Bayard, N. Mex.

We have no objection to the enactment of S. 1494 if amended as recommended below.

S. 1494 would direct the Adminisrator of Veterans' Affairs to convey without compensation to the village of Central a tract of about 58 acres of land, described in detail in the bill, now owned by the United States. These lands are part of the former Fort Bayard Military Reservation and now administered by this Department.

Amendments to S. 1494 which we recommend would:

1. Give sale authority to the Secretary of Agriculture rather than to the Veterans' Administration.

2. Provide for sale at market value, as determined by the Secretary of Agriculture, rather than for disposal through a free grant.

3. Provide for reservations in the deed to protect existing facilities such as roads, powerlines, telephone lines, and like improvements now located on the land, and to permit reservations of road rights-of-way.

We understand that the Veterans' Administration desires that the bill be amended to state specifically the uses to which the land will be put and to provide for reversion of title to the United States if it ceases to be so used. We would have no objection to incorporating such provisions into the bill.

The lands described in S. 1494 are a part of the old Fort Bayard Military Reservation set aside in 1869. In 1922 the reservation was transferred to the Veterans' Bureau for hospital purposes. It then included approximately 11,000 acres, a part of which was within and a part of which adjoined the Gila National Forest. The land is principally woodland and grass and is valuable for watershed purposes, particularly in connection with the hospital. In 1941, upon recommendation of the Veterans' Administration, all but about 640 acres was transferred to the Department of Agriculture by the Federal Works Agency with emphasis upon its protection and administration to safeguard and improve the watershed from which the Veterans'

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Administration Hospital obtains its water. This hospital is situated upon the 640 acres which were retained by the Veterans' Administration. The transfer was reconfirmed by the General Services Administration in 1954, pursuant to provisions of the Federal Property and Administrative Services Act, as amended. Since this Department is now administering the tract and has field personnel in close proximity to it, it would appear desirable and in the interest of economical operations that any disposal of the property be handled by the Department of Agriculture.

The described tract is situated between the south line of the old military reservation and United States Highway 260, which forms its northerly boundary. It adjoins the village of Central and appears to be suitable for development as the town expands. It is reported to include some attractive business and residential sites. It is not needed to assure protection of the hospital watershed. Disposal of the tract, therefore, appears unobjectionable insofar as the responsibilities of this Department are concerned. The bill contains no provision for continued use of the tract for public purposes and logical use of the property appears to be development for residential and business purposes. Under these circumstances, we believe that the tract should be sold at market value rather than granted free.

The tract is presently traversed by a Government-owned telephone line to Fort Bayard Hospital, by three electric power distribution lines, and by a water pipeline. It is desirable that the legislation give adequate authority to the disposing agency to except or reserve rights-of-way for these facilities and for necessary roads.

The above recommended amendments to the bill can be accomplished as follows:

Revise the title of the bill to read: "To authorize the Secretary of Agriculture to sell to the village of Central, State of New Mexico, certain lands administered by him formerly part of the Fort Bayard Military Reservation, New Mexico."

Revise lines 1 to 8 of the bill to read:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of Agriculture is authorized and directed to sell and convey to the village of Central, in the State of New Mexico, at market value as determined by him, the following described lands, formerly a part of Fort Bayard Military Reservation, Grant County, New Mexico, comprising approximately fifty-eight * * *"

Change the period at the end of line 12 on page 3 to a colon and add the following: "*Provided*, That conveyance of the described land shall be subject to easements and rights-of-way for telephone lines, pipelines, electric power transmission lines, roads, or other facilities or improvements in place, and the Secretary may reserve such easements for roads as he finds necessary to assure access to lands of the United States or to meet public needs."

We assume that the Veterans' Administration will furnish your committee with information relative to any further conditions in the deed of conveyance which it deems necessary to assure against uses of the land adverse to its operation of the nearby hospital.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE, *Acting Secretary.*

VETERANS' ADMINISTRATION,
Washington, D. C., February 17, 1956.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
United States Senate, Washington, D. C.

DEAR SENATOR HILL: Further reference is made to your letter of March 22, 1955, requesting a report by the Veterans' Administration relative to S. 1494, 84th Congress, a bill to authorize the Administrator of Veterans' Affairs to convey to the village of Central, in the State of New Mexico, certain lands administered by the Veterans' Administration facility at Fort Bayard, New Mexico.

The bill proposes to authorize and direct the Administrator of Veterans' Affairs to convey to the village of Central, N. Mex., without consideration, all right, title, and interest of the United States in and to a described tract of land containing approximately 58 acres, constituting part of the Fort Bayard Military Reservation, Grant City, N. Mex.

Executive Order No. 3669, promulgated April 29, 1922, transferred to the United States Veterans' Bureau (a predecessor agency of the Veterans' Administration), certain United States Public Health Service hospitals, including the hospital at Fort Bayard, N. Mex. The Executive order provided that after the effective date thereof, the hospitals would operate under the supervision, management, and control of the Director of the United States Veterans' Bureau. Under date of November 1, 1940, approximately 12,174 acres of the Veterans' Administration reservation at Fort Bayard were reported to the Federal Works Agency, as excess to the needs of the Veterans' Administration. It was recommended that the land be transferred to the Department of Agriculture for administration by the Forest Service, and that, as a condition of the transfer, the land be restricted so that it would not be subject to appropriation under any of the land laws and no use be made of the land, such as mining or grazing activities, which would endanger the water supply of the Veterans' Administration Hospital at Fort Bayard. The Forest Service of the Department of Agriculture assumed custody and jurisdiction of that land, subject to the mentioned conditions, on June 23, 1941. The Veterans' Administration is presently operating a 222-bed hospital with a preponderance of tuberculous patients on the remaining 640 acres of the original tract.

The 58-acre tract which S. 1494 proposes to convey to the village of Central, N. Mex., is part of the acreage transferred to the Department of Agriculture in 1941. It is accordingly suggested that the bill be amended by deleting the language "Administrator of Veterans' Affairs" and "Veterans' Administration facility" in line 3, page 1, and the title of the bill. The Veterans' Administration does not know whether the Department of Agriculture still has custody and control of the land in question. It is assumed, in this connection, that your committee will secure the views of the Secretary of Agriculture relative to the bill, and, in the event that that Department still has such custody and control, it is suggested that appropriate references to the Department and the Secretary thereof be incorporated in the bill.

From the description set forth in S. 1494, it appears that the lands proposed for transfer are partially contained in a quarter section of

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land which is contiguous with the present Veterans' Administration reservation. The only interest of the Veterans' Administration in the bill is to assure that the 58-acre tract is not used in a manner which would be inimical to the proper and effective operation of the Veterans' Administration hospital located in the vicinity. It is noted, in this connection, that the bill contains no specification of the use proposed to be made of the described tract by the village of Central, N. Mex. Accordingly, in the interest of the Government, it is recommended that, in the event the bill is favorably considered by the committee, it be amended to state specifically the use to which the described tract is to be put and, assuming that such use is not in any way incompatible with the operation of the Veterans' Administration hospital, that it contain a provision for reversion of the land to the United States in the event that it ceases to be so used.

Insofar as the Veterans' Administration is concerned, if the bill is amended, in the manner discussed above, so as to protect the adjacent Veterans' Administration hospital, we would interpose no objection to its favorable consideration.

Advice has been received from the Bureau of the Budget that there would be no objection by that Office to the submission of this report to your committee.

Sincerely yours,

H. V. HIGLEY, *Administrator.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., February 14, 1956.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Bureau of the Budget with respect to S. 1494, a bill to authorize the Administrator of Veterans' Affairs to convey to the village of Central, in the State of New Mexico, certain lands administered by the Veterans' Administration facility at Fort Bayard, N. Mex.

This bill would direct the conveyance without compensation of about 58 acres of public land to the village of Central. These lands are part of the former Fort Bayard Military Reservation and are now administered by the Department of Agriculture. It is our understanding that these lands are public-domain lands and could be sold to the village by the Secretary of the Interior under existing legislation if the tract is to be used for public purposes. However, if the lands are to be used for other purposes such as residential or business sites, special legislation for their conveyance would be needed.

This Bureau would have no objection to a bill to authorize the sale of these lands to the village of Central at fair market value, taking into consideration any restrictions which may be placed on the use of the tract. It is believed that such a bill should contain provisions to:

1. Restrict the uses to which the land may be put to protect the nearby Veterans' Administration hospital and provide for reversion of title in the event the village or its transferees violate the restrictions, such reversionary clause to terminate in the event the Veterans' Administration ceases operation of the hospital;

2. Protect existing valid rights; and

3. Reserve rights-of-way for existing facilities and such other rights-of-way that the Department of Agriculture or the Veterans' Administration may deem necessary.

Your committee may also wish to consider reserving to the United States minerals in these lands. Since the tract is currently under the jurisdiction of the Department of Agriculture, it would appear reasonable to authorize the Secretary of Agriculture to make the sale.

Sincerely yours,

PERCY RAPPAPORT,
Assistant Director.

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Calendar No. 2804

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2756

EXCEPTION OF CERTAIN COURSES FROM 2-YEAR PROVISION OF PUBLIC LAW 550, 82D CONGRESS

JULY 21 (legislative day, JULY 16), 1956 —Ordered to be printed

Filed under authority of the order of the Senate of July 21 (legislative day, July 16), 1956

Mr. HILL, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany H. R. 4127]

The Committee on Labor and Public Welfare, to whom was referred the bill (H. R. 4127) to exempt courses leading to standard college degrees offered by nonprofit educational institutions of higher learning from the provisions of section 227 of the Veterans' Readjustment Assistance Act of 1952 prohibiting the enrollment of eligible veterans under that act when such courses have been in operation for less than 2 years, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

Veterans eligible for educational benefits under the Veterans Readjustment Assistance Act of 1952 (Public Law 550, 82d Cong.) are prohibited by section 227 of the act from enrolling in any course which has been in operation for less than 2 years. This provision does not apply, however, to a course to be pursued in a public or other tax-supported educational institution, a course offered by an educational institution which has been in operation for more than 2 years if such course is similar in character to the instruction previously given by that institution, or any course which has been offered by an institution for more than 2 years, even though the institution has moved to another location within the same general locality.

This bill proposes that a further exemption be added to those mentioned above, so as to permit eligible veterans to enroll in courses offered by nonprofit educational institutions of college level, which courses are recognized for credit toward a standard college degree.

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In effect, the bill would afford private nonprofit educational institutions of college level the same treatment already afforded to public or other tax-supported educational institutions. Enactment of this legislation will have the effect of permitting a limited number of new colleges of unquestioned academic standing, some of which are conducted or sponsored by religious orders or denominations, to qualify for participation in this education program for veterans of the Korean conflict.

While it is impossible to estimate the precise cost, if any, which would result from passage of the bill, the Veterans' Administration report states: "Any such cost would be either nonexistent or negligible."

The Veterans' Administration recommends favorable consideration of this legislation. Its report follows:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington 25, D. C., July 5, 1955.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington 25, D. C.

DEAR MR. TEAGUE: This will refer to your request for a report by the Veterans' Administration with respect to H. R. 4127, 84th Congress, a bill to exempt courses leading to standard college degrees offered by nonprofit educational institutions of higher learning from the provisions of section 227 of the Veterans' Readjustment Assistance Act of 1952 prohibiting the enrollment of eligible veterans under that act when such courses have been in operation for less than 2 years, which would amend section 227 of the Veterans' Readjustment Assistance Act of 1952 to read as follows:

"PERIOD OF OPERATION FOR APPROVAL

"SEC. 227. (a) The Administrator shall not approve the enrollment of an eligible veteran in any course offered by an educational institution when such course has been in operation for less than two years.

"(b) Subsection (a) shall not apply to—

"(1) any course to be pursued in a public or other tax-supported educational institution;

"(2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by such institution; [or]

"(3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality [.]; *or*

"*(4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree.*"

[Italic has been supplied and indicates new language added by the bill. Material which would be deleted has been enclosed in brackets.]

Consonant with the purpose stated by its title, H. R. 4127 would expand the category of courses exempted from the requirements con-

tained in section 227 of the Veterans' Readjustment Assistance Act that eligible veterans cannot enroll under the act in a course until it has been in operation for 2 years, to include courses offered by institutions of higher learning leading to a standard college degree. At present, courses offered by a public or other tax-supported educational institution, and other courses under certain specified conditions, are not subject to this requirement. Thus, the bill appears to be directed toward affording like treatment to courses offered by private nonprofit educational institutions of college level.

The term "standard college degree" is used in section 235 of the Veterans' Readjustment Assistance Act (relating to the measurement of full-time and part-time training) but is not defined by statute. Consequently, the Veterans' Administration has supplied such a definition for purposes of section 235 by regulation (VA Regulation 12066 (D)). The following extract from that regulation is indicative of the situations which have been held to be included within the term:

"(*D*) *Institutional Undergraduate Course Recognized for Credit Toward a Standard College Degree*

"(1) A veteran pursuing an undergraduate course in a collegiate institution will be considered to be pursuing a course on a credit-hour basis measured as to full time or part time, as provided in subdivision (2) of this subparagraph, when such course is offered on a semester—or quarter-hour basis by an institution which is a member of a nationally recognized accrediting association or, although not a member of such association, it grants standard semester—or quarter-hour units of credit for the particular course or curriculum concerned, not less than 40 percent of which are acceptable at full value and without examination by at least three members of such association, and

"(a) The course leads to a baccalaureate or higher degree and is offered by a college or university which grants such a degree;

"(b) The course offered by a college or university leads to an associate degree, diploma, certificate, or title and meets all of the following conditions:

"*1*. High-school graduation or equivalent is required for admission to the course;

"*2*. A minimum of two full-time academic years is required for completion; and

"*3*. Standard semester or quarter credit-hours are awarded for the course or curriculum, not less than 40 percent of which are acceptable at full value in fulfillment of requirements for a baccalaureate degree by the element of the institution which awards such a degree, or by other baccalaureate degree-granting institutions which meet the criteria of subdivision (1) of this subparagraph."

* * * * * * *

The "2-year operation" rule of section 227 is a continuation, with modifications, of a policy made applicable to the World War II education and training program (title II of the Servicemen's Readjustment Act of 1944, as amended) by the Independent Offices Appropriation Act, 1950 (Public Law 266, 81st Cong.). Subsequently, such a requirement was enacted into permanent law as one of the amendments made in paragraph 9, part VIII, Veterans Regulation No. 1 (a), as amended, by section 1, Public Law 610, 81st Congress. The Public

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Law 610 language included exceptions to that requirement similar to those now contained in section 227 (b) of the Veterans' Readjustment Assistance Act.

It is clear that the problems which gave rise to the mentioned requirement applicable to the World War II education and training program were unrelated to institutions of higher learning. The Veterans' Administration, therefore, construed this provision of the law as not applicable to courses offered by such institutions in connection with the Servicemen's Readjustment Act.

In 1952, at the time when regulations implementing title II of the Veterans' Readjustment Assistance Act were in preparation, the Veterans' Administration proposed to exempt institutions of higher learning from the requirement of section 227, in view of the similarity of the language of that section to that applicable to the earlier program. However, the Office of the Comptroller General in reviewing these proposed regulations pointed out that section 227, in its context, applied to all courses not exempted by subsection (b) thereof; and consequently no exception could be made in the case of courses offered at institutions of higher learning, unless such institutions were "public" or "tax-supported." It is understood that the Comptroller General has recently reviewed and reaffirmed this position.

The experience of the Veterans' Administration in the administration of the Veterans' Readjustment Assistance Act program has not demonstrated that there would be many instances where college-level courses would be barred by section 227. However, there have been a few such cases, and, perhaps, the interests of all concerned would be better served if new institutions of higher learning or new departments of existing institutions of higher learning could enroll veterans under the act without a 2-year waiting period. Moreover, the experience of the Veterans' Administration under its interpretation of the comparable language placed in the 1944 act would indicate that no adverse results are to be anticipated from excluding courses of the character contemplated by H. R. 4127 from the 2-year operation rule.

It is therefore recommended that the committee give favorable consideration to the bill.

There is no way of estimating whether there would be any additional cost, either for direct benefits or administration, should the bill be enacted. In any event, it would appear that any such cost would be either nonexistent or negligible.

Advice has been received from the Bureau of the Budget that there would be no objection by that Office to the submission of this report to your committee.

Sincerely yours,

JOHN S. PATTERSON,
Deputy Administrator
(For and in the absence of H. V. Higley, Administrator).

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in Roman):

SECTION 227 PUBLIC LAW 550, 82D CONGRESS

PERIOD OF OPERATION FOR APPROVAL

SEC. 227. (a) The Administrator shall not approve the enrollment of an eligible veteran in any course offered by an educational institution when such course has been in operation for less than two years.

(b) Subsection (a) shall not apply to—

(1) any course to be pursued in a public or other tax-supported educational institution;

(2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by such institution; [or]

(3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality [.]; *or*

(4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree.

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Calendar No. 2813

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2765

DELINQUENT CHILDREN'S ACT OF 1956

JULY 21 (legislative day, JULY 16), 1956.—Ordered to be printed

Filed under authority of the order of the Senate of July 21 (legislative day, July 16), 1956

Mr. LEHMAN, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 4267]

The Committee on Labor and Public Welfare, having had under consideration measures to strengthen and improve State and local programs to combat and control juvenile delinquency, report an original bill to provide for assistance to and cooperation with States in strengthening and improving State and local programs for the diminution, control and treatment of juvenile delinquency and recommend that the bill do pass.

GENERAL STATEMENT OF PURPOSE AND MEANS

The purpose of the proposed legislation is to authorize programs which the Federal Government can usefully undertake to combat the growing problem of juvenile delinquency.

The programs set forth in the proposed bill would operate for the most part through the States, by grants-in-aid. The Federal Government would assist in (*a*) strengthening and expanding existing State and local programs to combat juvenile delinquency and stimulating new programs in States and localities which have not initiated such activities; (*b*) stimulating and promoting the training of expert personnel in the field of juvenile delinquency; and (*c*) stimulating and coordinating research in this field and gathering reliable and standardized data concerning the incidence and causes of the various manifestations of juvenile delinquency.

There is already established in the Children's Bureau of the Department of Health, Education, and Welfare a Division of Juvenile Delinquency which provides some guidance to State and local organizations interested in this problem. While it is recognized that there

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is a need for the Federal Government to exercise a much greater degree of leadership in dealing with this problem than is now provided, this legislation is based on the premise that the major activity in this field must come from State, local and neighborhood sources. This must be a "city-streets" and "grassroots" operation which engages the energies not only of governmental entities but of all the social and spiritual forces in all the communities and rural districts of the Nation.

The underlying philosophy of the proposed bill is that juvenile delinquency is not alone a police job, a juvenile court job, a school job—but everybody's job.

The most immediate and urgent need in the field of juvenile delinquency is increased numbers of trained and expert personnel. To meet this need, provision is made in the proposed bill for Federal grants-in-aid to the States and also directly to educational institutions for the specialized training of truant officers, juvenile court workers, probation agents, etc.

Also authorized in this bill are grants-in-aid to the States for the purpose of stimulating, expanding and strengthening existing State and local programs and to permit the States and localities to plan and coordinate their programs in the field of juvenile delinquency.

Grants are provided for special research projects, through the States and directly from the Federal Government.

For such an undertaking, designed to meet a problem of such magnitude as juvenile delinquency, the money authorized in the proposal is very little indeed. But the committee envisioned this legislation as authorizing a pilot program by which to ascertain the the extent to which the Federal Government can usefully contribute toward solving the problem which the committee recognized as having passed the limits of being a purely local one.

An important title of the proposed bill would create a Federal Advisory Council on Juvenile Delinquency, to be composed of knowledgeable persons in the various fields concerned with the problems of juvenile delinquency. The Council would review the programs of the Federal Government, report on significant developments in local efforts to combat juvenile delinquency, comment upon applications for special projects in this field, and make recommendations to the Secretary as to projects which might, in general, contribute to the sum of knowledge and experience in these areas. One of the Council's functions would be to focus national public attention upon important aspects of the juvenile delinquency problem.

In summary, the programs set forth in the proposed bill represent varied approaches for bringing to bear the support and influence of the Federal Government to supplement, promote, amd mobilize the efforts of State and local agencies and private organizations. These purposes would be achieved in the following manner:

The bill would authorize, for a period of 7 years, Federal grants-in-aid to the States to assist them in strengthening and improving State and local programs for the diminution, control, or treatment of juvenile delinquency. Allotments of the funds appropriated are to be made on the basis of child population. The amount of State matching funds required would vary inversely with per capita income, with a minimum of 33⅓ percent and a maximum of 66⅔ percent. The Federal grants are to be used by the States to determine the

most urgent needs of the State and localities for the diminution, control and treatment of juvenile delinquency, to develop a plan to meet those needs, to coordinate the execution of such plan, to provide demonstrations of improved services for the location, treatment and aftercare of delinquent youth, and to conduct research and investigations with respect to the causes and extent of juvenile delinquency, the effectiveness of programs, and improved methods for the diminution, control and treatment of juvenile delinquency.

The bill also authorizes the appropriation, annually for 8 years, of funds for grants to the States and to approved nonprofit institutions of higher learning for training personnel employed, or preparing for employment, in programs for the control and treatment of juvenile delinquency.

The bill further authorizes the appropriation annually, for 7 years, of funds for grants to States and to public and private nonprofit institutions of higher learning or research for special projects which hold promise of strengthening or improving programs for the diminution, control, or treatment of juvenile delinquency.

Under the provisions of this bill, the Secretary of the Department of Health, Education, and Welfare would be authorized to make, and disseminate information relative to, studies, investigations, demonstrations and reports promoting the strengthening of programs for the diminution, control or treatment of juvenile delinquency, to render technical assistance to States, and, for 2 years, to provide short-term technical training programs.

Background

As a result of comprehensive studies and hearings on juvenile delinquency conducted over a period of several years and held mainly under the auspices of the Senate Judiciary Committee, a number of legislative proposals were formulated and introduced in the Senate. Some of these were referred for appropriate legislative consideration of the Labor and Public Welfare Committee. The chairman appointed a Special Subcommittee on Juvenile Delinquency composed of Senators Lehman (chairman), McNamara, and Purtell, to which the pending legislative proposals were assigned. The bills so referred were as follows:

S. 728: A bill to provide for assistance to and cooperation with States in strengthening and improving State and local programs for the control of juvenile delinquency;

S. 894: A bill to strengthen and improve State and local programs to combat and control juvenile delinquency;

S. 1088: A bill to assist the States to return runaway children to their own communities in another State;

S. 1832: A bill establishing a national youth rehabilitation corps to provide for the rehabilitation of youthful delinquents through a program of service in connection with the preservation and protection of the natural resources of the Nation, such program to include general educational, vocation, and military training.

The Special Subcommittee on Juvenile Delinquency proceeded to hold initial hearings at Washington, D. C., on all these pending proposals. It became clear, as a result of these hearings, that the two

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main proposals to be considered were S. 728 and S. 894, which proposed direct approaches to the problem of juvenile delinquency.

Major attention, as indicated, was focused on S. 728 and S. 894. The latter bill reflected, in its major provisions, the viewpoint of the Department of Health, Education, and Welfare.

At the initial hearings in Washington, statements were heard or submitted by representatives of the administration and by some 50 individuals representing not only National, State, and local public and private organizations and agencies, but also the various professions concerned with juvenile delinquency.

It was made clear, as a result of these hearings, that while both S. 894 and S. 728 contained provisions upon which most of the expert witnesses agreed, neither bill, as an entity, contained a formulation of either programs or approaches which could be readily made acceptable by simple amendment.

Because of this circumstance, and on the basis of the testimony taken at these hearings, a subcommittee print was prepared by the staff of the subcommittee under the direction of the chairman. The print was an attempt to include the best features of the two bills in accordance with the expert testimony which had been received, and reflected many of the recommendations and observations made both by the administration and by private and public experts on the problem of juvenile delinquency.

This subcommittee print was, in turn, sent to many hundreds of persons and agencies engaged in work in the field of juvenile delinquency throughout the Nation, and their advice, criticisms and suggestions were solicited. The replies were carefully studied by the subcommittee. In addition to soliciting the most expert views possible with respect to the subcommittee print, additional hearings were held in New York specifically to gather testimony with respect to its provisions.

This subcommittee print was also circulated among all the State commissioners of public welfare and State health commissioners, soliciting their views and comments. The testimony and comments of the experts who appeared before the subcommittee at its New York hearing and the comments and suggestions of the State public welfare commissioners and State commissioners of health, together with all other comments and suggestions submitted by private voluntary organizations were then brought to bear upon the subcommittee print.

There was also undertaken a series of consultations with officials of the Department of Health, Education, and Welfare. From these consultations, and from the comments and suggestions referred to above, there emerged a legislative formulation which the subcommittee reported to the full committee, and which the committee has favorably recommended. The proposed bill reflects the comments of the administration as well as the suggestions of experts in this field.

The committee recommendation of the proposed bill was a unanimous one.

General Statement

Extent of Juvenile Delinquency in the United States

Juvenile delinquency in the United States is still on the upswing. Delinquency court cases have been rising for the past 7 years and,

percentagewise, rising far faster than our juvenile population. The most recent preliminary report issued by the Children's Bureau shows that delinquent children coming to the attention of juvenile courts rose 9 percent in 1955, while the child population between the ages of 10 to 17 rose only 3 percent. Federal Bureau of Investigation figures showed, for the corresponding period, an 11.4 percent rise in police arrests of young persons under 18 as compared to 1954.

The startling rise in delinquency takes on added significance when the 1955 figures are compared with those of 7 years ago. In 1955 there were roughly one-half million children involved in court delinquency cases out of a total of approximately 20 million children in the United States between the ages of 10 through 17. Compared to 1948, when the rise first began, the 1955 figure represents an increase of 70 percent, while the child population during the same period increased only 16 percent.

As the Commissioner for Social Security testified before the subcommittee:

> One out of every 13 children in the Nation who are between 10 and 17 was in trouble with the law in 1954. About one and a third million were picked up by the police. Of this number, 335,000 were referred by the police to juvenile courts. This group, together with the 140,000 coming to court from other sources, made a total of 475,000 appearing in court. Of this total, more than 40,000 were committed to training schools for delinquent youth.

It has been estimated that unless the spiraling increase in juvenile delinquency can be arrested, the number of children between the ages of 10 and 17 getting into trouble with the police will increase to 2 million by 1960.

The fight against juvenile delinquency must take two roads. The first is the continuing effort to prevent youngsters from taking the first misstep. The programs aimed at the anticipation and prevention of juvenile delinquency cannot be emphasized too strongly. This should be one of the main fronts for the attack on the problem. It is the one-unfortunately, about which the least is known in an organized way. The second and more obvious road to be followed is in the direction of helping the youngsters who get into trouble and to assist them along the path to rehabilitation and useful citizenship.

Of concern also to the committee has been the form of the delinquent acts committed by children. An increasing number of younger boys and girls are committing serious offenses. During each successive year since 1948, for example, a larger number of persons under 18 years of age have been involved in such offenses as burglaries, robberies, and automobile thefts.

Another point which the committee wishes to stress is the fact that juvenile delinquency is not a big-city problem. From information available, it is true that the most serious manifestations of juvenile delinquency most generally take place in large urban areas. But it should be noted that whereas juvenile delinquency increased 58 percent nationwide between 1948 and 1954, the number of juvenile offenders appearing in courts serving populations of less than 100,000 increased 63 percent in the same period.

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Still another popular misconception must also be dissipated. While slum areas do contribute disproportionately to the problem of juvenile delinquency, ecouomically well-to-do communities also produce many juvenile delinquents.

The committee has, therefore, found that the problem of juvenile delinquency is all-pervasive, affecting in one form or another and in varying degrees each and every citizen of the United States. This is true whether we refer to the problems besetting a delinquent child and his family or to the higher taxes we must pay to maintain juvenile delinquents in institutions.

CAUSES OF JUVENILE DELINQUENCY

Testimony before the subcommittee offered convincing proof, if any were needed, that the root causes of juvenile delinquency are many and varied and that the factors contributing to it are as many and varied.

No child is born delinquent. The wide variety of influences and conditions to which a child is subject either lessen or increase his chances of becoming a delinquent. Many witnesses testified to the crucial role played by parents and the parent-child relationship in the road taken by a child. Some pointed out that not all children have an opportunity to develop and enjoy sound family relations. This lack—an important one in the life of a child—can come about when the homes are broken by desertion or death. Sometimes a home can be a "broken home," even though the parents are physically present but the sound parent-child relationships do not exist or are materially wanting because of the parents' own deficiencies.

Influences outside the home can also have a profound effect upon the emotional growth and development of a child. As Mr. Saul Alinsky testified:

> * * * in the main, delinquency and crime arise out of inadequate, substandard housing, disease, economic insecurity, inadequate educational facilities, discrimination, and a series of social ills which combine to foster and relate to each other in a vicious circle with each feeding into the other so that frustration, demoralization, and delinquency mounts * * * The job is one of community organization so that our citizens will have a medium through which they can actively participate, assume the obligations, responsibilities, and rights of citizenship, have roots of stability, of belonging, a feeling of status and identification as persons.

PRESENT PROGRAM FOR DIMINUTION, CONTROL, OR TREATMENT

Testimony presented to the subcommittee clearly revealed that existing programs—Federal, State, and local—for the diminution, prevention, control, or treatment of juvenile delinquency are shamefully weak. A community, a State, or a Nation has as large or as small a juvenile delinquency problem as it deserves. If it refuses to dedicate the resources needed to the task of preventing or treating juvenile delinquency by applying what we do know—even though there is much more that we must learn—then it can only blame itself.

And since the causes of juvenile delinquency are many and varied,

our attack upon the problem must be multiphased. Dr. Martha Eliot, Chief of the United States Children's Bureau, in her testimony, indicated how broad this attack must be:

> I hardly need to point out that the treatment and control of juvenile delinquency require the cooperation of a wide variety of services and agencies. These include the police, detention care, courts, probation services, foster family care, health services, including psychiatric consultation, vocational counseling and education, training schools and other types of group-care facilities, and after care, by which I refer to placement and supervision usually after release from a training school.

A report on how weak these services and agencies are was given to the subcommittee by the Commissioner for Social Security, Mr. Charles Schottland:

> At the present time, in nearly one-half our communities of over 100,000 population, not even one police officer is assigned special responsibility for work with juveniles. The percentage of police officers with special training for working with juveniles is small. The majority of our cities fail to require any qualifications for appointment to juvenile work other than those for the police force in general. * * * Now, although we know that children should not be held in jails with adults, 100,000 children annually are in jails not with special facilities. As to court services, 5 of 10 counties, or 50 percent of the counties have no juvenile probation services. Of those officers, 4 out of 10 have had no college education and most have not had professional training or professional background. In our training schools, where we have the opportunity to rehabilitate, 4 our of 10 have no staff social workers and 6 out of 10 have no staff psychiatrist, 2 of the essential skills necessary. * * *
>
> More than half the counties in the United States fail to offer probation services for delinquent youth. There are about 1,700 local probation officers giving services exclusively to juveniles and an additional 2,000 giving services to courts involving both juveniles and adults. It has been estimated that 15,000 probation officers should be at work full time in juvenile courts. * * * Serious shortages exist in personnel serving delinquent youth. More people are needed who have had professional training in social work, education, law, psychiatry, psychology, and other health services—all fields in which the demand is already far greater than the supply of available trained personnel. In addition, more training programs are urgently needed to improve the quality of services of all personnel already serving delinquent youth, professional as well as nonprofessional personnel.

With this analysis of the lamentable situation existing in the presently available services for the diminution, control and treatment of juvenile delinquency, the committee is in agreement.

The committee carefully weighed the question as to whether existing State and local services, admittedly weak and inadequate at

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present, could or would be strengthened without financial assistance from the Federal Government. It came to the conclusion that they would not and that Federal assistance—both technical and financial—is needed, and needed urgently. The committee's conclusion is, of course, in accord with the recommendations of the administration for the inauguration of a Federal grant-in-aid program to assist States and localities in strengthening and improving their programs for the diminution, control and treatment of juvenile delinquency.

Such aid and assistance on the part of the Federal Government was supported by the vast majority of witnesses appearing before the subcommittee. The case for such a Federal program was ably put by the Honorable Joseph Clark, mayor of the city of Philadelphia, in these words to the subcommittee:

> I imagine there is no one here who thinks that legislation is going to cure the problem of juvenile delinquency. It is an evil and a sickness in our social body which is going to take a great deal more than law to solve. On the other hand, there can be no doubt * * * whatever, that there must be legislation and in my judgment legislation at the Federal level to help mobilize all of the resources of the country and of particular communities to the attack on this problem. These agencies are of course far wider than Government agencies. It is rather a cliche to say we start with the church, the home, and the schools, but of course we do. It is a truth as well as a cliche. Yet in my judgment there must be activity in many civic agencies and at all levels of Government to make a successful attack on this constantly increasing problem.

NEED FOR INTENSIFIED NATIONAL LEADERSHIP

Juvenile delinquency must be prevented and treated where it exists—at the local level. The committee does not even suggest that any other approach is either feasible or desirable. It does maintain, however, that local efforts at the prevention and treatment of juvenile delinquency can be stimulated and encouraged by intelligent, coordinated and informed leadership at the national level.

The committee wishes to point out specifically that such national leadership must come not alone from the Federal Government, but from private national organizations as well. However, the leadership role of the latter in the fight against juvenile delinquency was not within the mandate of this committee.

What was within its mandate was the question of how best to strengthen the leadership role of the Federal Government so as to bring the values of joint national planning to the administration of the programs contemplated by this bill.

The committee is, of course, aware of the existence of the Federal Interdepartmental Committee on Children and Youth and of the recommendation of the Subcommittee on Juvenile Delinquency of the Senate Committee on the Judiciary that the status of the committee be increased, so that it may become a more effective instrument for "joint coordination and planning among all Federal Agencies with respect to Federal programs affecting children and youth," especially in the field of juvenile delinquency.

Assuming that this recommendation will be carried out, the committee was left with the task of providing the best possible device for securing the best possible advice and counsel for the Secretary of the Department of Health, Education, and Welfare with respect to programs for the diminution, control and treatment of juvenile delinquency.

To achieve a focal point for the injection of nongovernmental viewpoints into the design and execution of such programs, the bill proposes the establishment of an Advisory Council on Juvenile Delinquency in the Department of Health, Education, and Welfare consisting of the Secretary of that Department and 21 members appointed by the Secretary. It is intended that the membership of the Advisory Council would be widely representative of the many professions and agencies that must work together as a coordinated unit in the prevention and treatment of juvenile delinquency. Included would be representatives of such fields as education, law, child psychology, criminology, penology, sociology, psychiatry, social work, juvenile court work, probation and parole services, spiritual guidance, recreation work, police work and community organization work.

The Secretary would secure advice from this Council, both on programs for the diminution, control and treatment of juvenile delinquency, and on requests for grants for special projects made available under title IV of the bill.

NEED FOR ASSISTANCE TO STRENGTHEN AND IMPROVE STATE PROGRAMS

The vast majority of the testimony before the subcommittee supported the establishment of a grant-in-aid program to assist States and localities to strengthen and improve coordinated programs for the diminution, control and treatment of juvenile delinquency. Besides giving financial assistance to State and local programs, many of the witnesses believed that the enactment, in and of itself, of a Federal grant-in-aid program in this area would give great stimulus to the coordination of State and local programs, so that they could more effectively reach the child needing services.

What is proposed by the committee in this bill, therefore, is a frontal attack on the problem of juvenile delinquency in the United States. It proposes a 7-year grant-in-aid program to enable States and localities to: (1) Determine the most urgent needs of a coordinated program for the diminution, control and treatment of juvenile delinquency; (2) develop a plan of priorities to meet these needs; (3) coordinate, on a continuing basis, the execution of these plans; (4) provide demonstrations of improved services for the location, treatment and aftercare of delinquent youth; and (5) conduct research and investigations for assessing the causes and extent of juvenile delinquency and the effectiveness of the existing programs.

One point particularly stressed by the witnesses before the subcommittee was that the fight against juvenile delinquency is not a task alone for the experts, but must involve a total community effort. As one witness testified:

> It is here at the level of their family life, their schools, their churches, their community where the issue of prevention and control of juvenile delinquency will be resolved.

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But merely involving many people in the effort is not enough. The effort must be a coordinated one or valuable time and effort will be wasted.

The committee paid special heed to the question of how to achieve this necessary coordination of peoples, organizations and agencies, both at the State and local level. Various proposals were advanced. The committee finally concluded that the greatest possible flexibility should be permitted to the State in the determination of the State agency to be designated to carry out the State plan. As reported, the provision adopted would permit the designation as the State agency of the welfare department, a youth authority, a commission on children and youth, or any other appropriate agency of the State which it determines can effectively carry out the purposes of the plan.

Realizing, however, that the program for the diminution, control or treatment of juvenile delinquency would, at the State and local levels, involves more than one agency, the committee adopted in the bill two devices to achieve the greatest possible coordination and consultation with and among the individuals and agencies that must be involved in the formulation and execution of the State plan:

(1) A requirement that the State plan must show that in its development there has been consultation with and among State and local public and voluntary agencies, as well as individuals, engaged in or responsible for services to, or care of delinquent youth;

(2) A requirement for the establishment of a State advisory council to the State agency composed of members representative of private voluntary organizations, professional organizations and civic groups interested in the problems of children and youth.

It is to be emphasized that these proposals do not transfer to the private and voluntary agencies administrative functions and responsibilities which must properly be lodged in Government. These agencies and organizations, both at the national level and in communities and neighborhoods, are, however, to be involved and mobilized both for consultation and for participation in the operation of the programs.

The sums authorized to be appropriated for grants to States under this bill would begin at $5 million for the first year, increase to $7,500,000 the second year, to $10 million the third year, and, for the following 4 years, would be such sums as are determined by the Congress. Allotments to the States would be on the basis of child population. Matching by the State would be on the basis of an inverse ratio to per capita income.

In addition, to enable the States to get the programs under way quickly, planning and survey grants, not to be matched, are provided for in an amount not to exceed $30,000 for each State.

NEED FOR TRAINED PERSONNEL

Major reasons why delinquency problems remain so serious are the great shortages of personnel to work with delinquent youth and the small percentage of those now so employed who have had special training for such work. The bill, therefore, provides, for 8 years, for grants to the States and to nonprofit institutions of higher learning for paying the costs of training personnel employed or preparing for employment in programs for the diminution, control, and treatment of juvenile delinquency.

No single State has an overall picture of its training needs for police, probation and parole, and institutional work. A primary use to which State and local agencies would put Federal grants for training would be to survey the quantity and variety of training required for present staff and for expansion of services. A job of tremendous size must be done in developing more courses and institutes in appropriate educational institutions as well as in on-the-job training; in preparing and disseminating training materials; in coordinating training programs. Funds are needed for stipends to enable trainees to attend courses and for traineeships that will attract more young people into these service fields.

Few dispute the fact that the attitude of children toward authority and their acceptance or defiance of law are greatly influenced by their contacts with the police. Yet the majority of our cities fail to require appropriate qualifications for appointment to juvenile work. In over half of our communities with more than 10,000 population, there is not even one police officer trained to carry special responsibility for work with juveniles.

Throughout the Nation, some 2,700 juvenile specialists are needed in police departments. There are at present about 1,600 police with these responsibilities, but the percentage who have had special training for their work is very small indeed. Only five educational institutions now provide even short-time training courses for juvenile officers. Federal grants made under this bill would be available both to assure primary training for those already employed and to equip the needed 900 additional juvenile specialists.

When each police department has the requisite number of juvenile specialists who are trained in such matters as laws pertaining to juveniles, factors that lie back of juvenile delinquency, techniques of interviewing, dispositions and referrals of youngsters, uses of detention, and community resources and relationships with preventive programs, major advances in the handling of the juvenile delinquency problem would result.

Fifteen thousand probation officers, it has been estimated, should be at work full time in juvenile courts. There are now only some 1,700 giving service exclusively to youngsters, and an additional 2,000 serve courts involving both juveniles and adults.

Well-trained probation workers are an essential if judges are to be furnished with objective and discerning information on the background of the youngsters brought before them. Without staff equipped with knowledge specifically applicable to the probation and parole functions, judges will continue to be faced—as too many of them are now—with the Hobson's choice of either sending youngsters to training schools for delinquents or returning them to the very home and community conditions that contributed to their personal or social sickness. Opportunities for linking youngsters in trouble with the law and "preventive" activities on their behalf are constantly being passed up because of the limitations in know-how of untrained court workers.

In the crucial setting of juvenile courts, judges should have the supporting help of workers trained to work in specialized courts for children, in the normal growth and development of children and in the nature of delinquent behavior, in the function of probation services, in relationships with community services for children and

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youth and with other law-enforcement bodies, and above all in giving casework services to individual delinquents. If courts were adequately equipped with staffs of this quality, lasting benefits to youngsters and communities would result.

The inferior quality of care and treatment that training schools for delinquents provide for many of the 40,000 youngsters sent to them each year was testified to before the subcommittee. Four out of 10 training schools have no staff social workers; 6 out of 10 have no staff psychiatrists. Personnel closest to children in these institutions—such as house parents—in many instances are the least oriented to the growth of human relations requirements of children, and to the nature of delinquent behavior. Here, again, training on many different levels must be provided staff members and prospective workers if these schools are to serve their true rehabilitative purposes and if the high rates of recidivism are to be reduced.

Such training needs are not limited to any one section of the country or to any type of community, but are found, to greater or lesser degree, across the country. A concerted attack on them, nationwide, stimulated by the grants authorized by this bill, can be one of the most salutory contributions to the control and diminution of juvenile delinquency.

NEED FOR SPECIAL PROJECTS

Testimony adduced at the hearings brought out the fact that while much is known about what to do with respect to the prevention, control and treatment of juvenile delinquency, there is much that is unknown. As Thomas J. S. Waxter, director, Maryland State Department of Public Welfare, testified:

> Much has been learned about the nature of juvenile delinquency and how to prevent and treat it, but there is also much more than we need to know. We need more scientific information about the social, psychological, and physical aspects of delinquency and the ways of applying this knowledge. We need to know more about the ways in which to organize and administer programs for making our services more effective in the communities throughout the country. For this reason, it is of particular importance to experiment and try new ways of doing things.

Recognizing the importance of uncovering new and improved methods and techniques for dealing with juvenile delinquency, the committee has provided in this bill for a special grant-in-aid program. The sums made available under it are to be granted to States and to public and private nonprofit institutions of higher learning or research for projects which hold promise of making a substantial contribution to strengthening or improving programs for the diminution, control, or treatment of juvenile delinquency. The program for special project grants is authorized under the terms of the bill for 7 years.

Much community indifference to facing up to the seriousness of juvenile delinquency problems derives from lack of knowledge about what is not being done, and what might be done, in dealing with them. One of the most potent instruments of community education is the investigation and demonstration method.

Some theories and some types of new knowledge as to effective prevention and treatment methods can be proved or disproved only

through demonstration. Some effective techniques may have limited or broad applicability, but only through demonstration in many places, under varying conditions, can their broad usefulness be substantiated.

Special study and demonstration projects afford a controllable and economical way of moving ahead with a minimum waste of time and money and maximum opportunity for evaluating results.

Since an almost infinite number of such projects might profitably be proposed, the language of the bill defining the scope and objectives of this program has been so framed as to permit the greatest possible flexibility.

During the course of the subcommittee's hearings, several examples were given of such demonstration projects now being carried on in a limited and spotty manner throughout the country.

Mr. Ralph Whalen, executive director, New York City Youth Board, gave the following example of a special demonstration project carried on by his agency:

> * * * our project known as services to families and children. This is a regular family counseling service designed to work with the resistive families who absolutely refuse to take advantage of the services of voluntary agencies or on whom voluntary agencies just do not have the time to spend in order to work their resistance and offer help.
>
> This we call the hard core group. We are concentrating on this. We are trying to get our voluntary agencies to work with us on this difficult problem because we are convinced that this is the group that eventually goes through the mill from the children's court to the court for youthful offenders and eventually ends up in State prison.

Mr. Saul D. Alinsky, executive director of the Industrial Areas Foundation in Chicago:

> The Back of the Yards Council got a large section of land from a major railroad, which runs through the community in Back of the Yards. We could have had certain projects come in and level off this land. This land was filled with hummocks and had been used as an old dumping ground.
>
> Instead of doing that, and having that section of land prepared in 60 days so that the community could use it, the community organization decided to spend 2 years having local groups do the physical work themselves, and the actual leveling of this land.
>
> And deliberately groups which were hostile to each other were placed in adjoining sections, so that as they were working on a hot day leveling this land, usually on a weekend or a late afternoon, they began to call each other by their first names. They stopped to have a glass of beer together. They began talking about problems. And an entirely new relationship developed.
>
> Today it is now one of the largest recreational centers on the south side of Chicago, completely manned and supported by the local community, completely equipped by the local community.

Far too little of these and many other kinds of experiments and demonstrations have been taking place. The grants which this bill

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would authorize should spark a great array of them, and through the coordination of programs, encouraged by this bill, the results of each will become useful to all who are working on the problem of juvenile delinquency throughout the Nation.

Section by Section Analysis

Section 1 provides that the short title of the bill is the "Delinquent Children's Act of 1956"

Section 2 sets forth the findings and policies of the Act.

TITLE I

Section 101: This section would establish a Federal Advisory Council on Juvenile Delinquency in the Department of Health, Education, and Welfare to provide the Secretary of that Department with advice concerning programs for the diminution, control and treatment of juvenile delinquency. In addition to the Secretary or his designee, the Council would consist of 21 members appointed by the Secretary, without regard to civil-service laws. The appointed members would not be officers or full-time employees of the Federal Government and are to be eminent in fields related to juvenile delinquency, some of which are named specifically in this section. In addition, the Secretary, in making such appointments, is to take into consideration recommendations made by private voluntary organizations and professional associations, some of which are named in this section.

Section 102: The terms of the 21 appointed members are to be for 4 years, except the appointees to the Joint Council who are to serve for staggered terms.

Section 103: This section provides that the Council shall submit an annual report to the Secretary, and such additional reports as the Council deems necessary. These reports are to deal with the status of the problem of juvenile delinquency, the progress made with the problem, together with such recommendations as the Council deems appropriate. These reports are to be submitted to the Congress.

Section 104: This section authorizes the Council to comment upon applications for special projects and authorizes the Secretary to utilize the services of Council members.

Section 105: Under this provision, decisions of the Council are to be by majority vote of all members of the Council. The Secretary or his designee may not vote except in case of a tie.

Section 106: This section provides for a maximum compensation for Council members on official business of $50 per diem, in addition to expenses while away from their places of residence.

Section 107: This section authorizes the Council to elect a chairman and a secretary. The Secretary of Health, Education, and Welfare is authorized to provide the Council with technical, consultative, clerical and other assistance.

TITLE II

Section 201: Authorizes the appropriation of the following sums to assist in strengthening State and local programs for the diminution, control and treatment of juvenile delinquency: For fiscal year 1957,

$5 million; fiscal year 1958, $7,500,000; fiscal year 1959, $10 million, and for each of the following 4 fiscal years such sums as the Congress may determine.

Section 202: This section provides that the sums appropriated are to be used to make grants to States having approved State plans to assist them to establish, strength and improve programs for the diminuation, control and treatment of juvenile delinquency by determining the most urgent needs of States and localities, developing a plan of priorities to meet those needs, for coordinating the execution of those plans, to provide demonstrations of improved services for the location, treatment and aftercare of delinquent youth, and for conducting research and investigations for assessing the causes and extent of juvenile delinquency and the effectiveness of existing juvenile delinquency programs, and for developing improved methods for the diminution, control and treatment of juvenile delinquency.

Section 203: This section sets forth the requirements of a State plan. State plans must comply with the eight conditions set forth in the bill.

Section 204: (a) This section provides for allotments to the States from the sums appropriated. Allotments to each State are to be made on the basis of the ratio its child population bears to the total child population of all the States. Each State is to receive a minimum allotment of $50,000.

(b) From each State's allotment, the Secretary is to pay the State an amount equal to the Federal share (as defined in sec. 507 of the bill) of the cost of carrying out the State plan. For use during the first 2 years of the program, each State is to be paid $30,000 which it need not match.

(c) This section provides authority to the Secretary to reallot, from time to time, such part of the initial allotment to a State as the Secretary determines will not be needed by that State.

TITLE III

Section 301: Authorizes the appropriation for the fiscal year 1957 of the sum of $5 million for the purpose of making grants for the training of personnel employed or preparing for employment in programs for the diminution, control and treatment of juvenile delinquency. For each of the 7 succeeding fiscal years there is authorized to be appropriated such sums as the Congress may determine.

Section 302: This section provides that the sums appropriated under this title are to be available for grants to States and to approved nonprofit institutions of higher learning for paying the cost of training personnel employed or preparing for employment in juvenile delinquency programs or for developing courses for such training.

Section 303: This section permits payments under this title to be made by the Secretary either in advance or by way of reimbursement. It also authorizes the Secretary to impose such conditions upon payments as the Secretary finds necessary.

TITLE IV

Section 401: The provisions in this section authorize the appropriation for the fiscal year 1957 of $1 million for grants for demonstrating or developing improved techniques and practices for the diminution,

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control and treatment of juvenile delinquency. For each of the 6 fiscal years following, this section authorizes the appropriation of such sums as the Congress may determine.

Section 402: This section provides that the sums appropriated under this title are to be available for grants to States and to public and private nonprofit institutions of higher learning or research for special projects which hold promise of making a substantial contribution to strengthening or improving programs for the diminution, control, or treatment of juvenile delinquency. Provision is contained in this section authorizing States to carry out such special projects either themselves or through political subdivisions of the State. The section contains a restriction to the effect that where the funds are to be used for direct services to delinquent children, prior approval must be obtained from the State agency supervising the administration of the State plan.

Section 403: This section permits payments under this title to be made by the Secretary either in advance or by way of reimbursement. It also authorizes the Secretary to impose such conditions upon payments as the Secretary finds necessary.

TITLE V

Section 501: This section authorizes the Secretary to make and disseminate the results of studies, investigations, demonstrations, and reports promoting the strengthening of programs for the diminution, control and treatment of juvenile delinquency. It also authorizes the Secretary to cooperate with and render technical assistance to States with respect to such programs. In addition, the Secretary is authorized, until June 30, 1958, to provide short-term courses of training and instruction in technical matters relating to the diminution, control and treatment of juvenile delinquency.

Section 502: This section authorizes the Secretary to make regulations governing the administration of the act.

Section 503: This section authorizes the inclusion each fiscal year in the appropriation for the Department of Health, Education, and Welfare of such sums as are necessary to administer the act.

Section 504: This section sets forth the manner of computing and paying grants to States to carry out their State plans under section 204.

(A) Before the beginning of each calendar quarter, the secretary is to estimate the amount to be paid to each State under the provisions of section 204 for such period. The Secretary's estimate is to be based upon such records of, or information furnished by, the State agency and such other investigations as the Secretary finds necessary.

(B) This subsection provides that the amounts so estimated by the Secretary are to be paid to the State out of the allotments made to that State. The amounts paid to the State are to be reduced or increased by any amount by which the Secretary finds that the amounts paid to the State for a prior period were greater or less than the amount which should have been paid to the State. It also provides that such payments are to be made through the disbursing facilities of the Treasury Department in such installments as the Secretary may determine.

Section 505: (a) This section provides that whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency, determines that the State plan, or a portion of it, has been so

changed that it no longer complies with a provision required by section 203 to be included in the plan or that in the administration of the plan, or a portion of it, there is a failure to comply substantially with such a provision, the Secretary is to notify the State agency that no further payments will be made with respect to the entire plan or a portion of it until he is satisfied that there will no longer be such a failure. Until he is so satisfied, the Secretary is directed to make no further payments to the State with respect to the plan or a portion of it.

(b) This subsection provides for an appeal by the State to the United States Court of Appeals for the circuit in which the State is located from the Secretary's decision.

Section 506: This section defines the following terms used in the bill:

(A) The word "State" is defined to include Alaska, Hawaii, the District of Columbia, the Virgin Islands and Puerto Rico.

(B) The "Federal share" for any State is defined as 100 percent less than percentage bearing the same ratio to 50 percent as the per capita income of the State bears to the per capita income of the continental United States (other than Alaska). In no case may the Federal share be more than 66⅔ percent or less than 33⅓ percent. In addition, the Federal share for Hawaii and Alaska is to be 50 percent and for Puerto Rico and the Virgin Islands it is to be 66⅔ percent. The "Federal shares" are to be promulgated by the Secretary between July 1 and September 30 of each odd-numbered year on the basis of the average of the per capita incomes of the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Once promulgated, the "Federal shares" are to be conclusive for the next 2 fiscal years.

(C) The term "child population" is defined to mean the population under 21 years based on the latest figures furnished by the Department of Commerce.

(D) The term "programs for the diminution, control, and treatment of juvenile delinquency" is defined to include programs for the control and treatment of delinquent youth up to the age of 21 years.

It was the intent of the committee, in defining the term "programs for the diminution, control and treatment of juvenile delinquency," to make Federal funds available for programs and services directed toward the prevention of delinquency or crime by youths up to the age of 21 years. It was not intended that a court finding that the youths are juvenile delinquents or have been convicted of crimes be a prerequisite to the use of Federal funds in such preventive programs. On the other hand, it was not the intent of the committee in including this definition to authorize the expenditure of Federal funds for programs or services primarily or substantially designed for the actual care and treatment of youths who have been convicted of crime.

Section 507: This section requires the Secretary, not later than January 1, 1962, to transmit to the President a report of the experience of Federal, State and local agencies in the administration of the act. Such a report is to be accompanied by the Secretary's recommendations, and the recommendations of the Council, as to the expiration, continuance or revision of the act.

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